

FEDERAL REGISTER

THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
OF THE UNITED STATES
1934

VOLUME I NUMBER 172

Washington, Wednesday, November 11, 1936

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 48613]

CUSTOMS REGULATIONS AMENDED—DENATURING VEGETABLE OILS
ARTICLE 452 (D), CUSTOMS REGULATIONS OF 1931, AMENDED AS
TO CHARACTER OF SPECIAL MINERAL DENATURING OIL AND TO
INCLUDE STEAM-DISTILLED PINE OIL AS APPROVED DENATURANT

To Collectors of Customs and Others Concerned:

Pursuant to the authority contained in paragraph 1732 of
the Tariff Act of 1930 (U. S. C., title 19, sec. 1201), article
452 (d) of the Customs Regulations of 1931, as amended by
(1936) T. D. 48114 and (1936) T. D. 48255, is hereby further
amended as follows:

Item (17) is amended to read:

(17) Two gallons of special mineral denaturing oil of the
following specifications:

Initial boiling point: Not lower than 205° C. Flash point (open
cup): Not lower than 75° C. Specific gravity at 15.5° C.: Not
lower than 0.819. This special mineral denaturing oil must be
easily recognizable by its pronounced and unmistakably disagree-
able taste and odor when present in the vegetable oil to be dena-
tured in the proportion of two parts of the mineral oil to 100
parts of the vegetable oil.

A new item (21) is added to read as follows:

(21) One hundred fluid ounces of steam-distilled pine oil.

[SEAL]

FRANK DOW,

Acting Commissioner of Customs.

Approved, November 2, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

[F. R. Doc. 3318—Filed, November 9, 1936; 3:05 p. m.]

[T. D. 48626]

AIRPORT OF ENTRY

ROCHESTER MUNICIPAL AIRPORT, ROCHESTER, NEW YORK, DESIG-
NATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce
Act of 1926 (U. S. C., title 49, sec. 177 (b)), the Rochester
Municipal Airport, Rochester, New York, is hereby designated
as an airport of entry for the landing of aircraft from for-
eign countries for a period of one year from the date of the
approval of this order.

[SEAL]

W. R. JOHNSON,

Acting Commissioner of Customs.

Approved, November 7, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

[F. R. Doc. 3332—Filed, November 10, 1936; 12:14 p. m.]

Bureau of Internal Revenue.

[Regulations 91]

EMPLOYEES' TAX AND THE EMPLOYERS' TAX UNDER TITLE VIII OF THE SOCIAL SECURITY ACT

TABLE OF CONTENTS

CHAPTER I

Definitions

Section 1101 (a) and (b) of the Act

Section 811 of the Act

Section 11 of the Carriers Taxing Act

Article 1. General definitions and use of terms.

- (a) Terms defined in the Act.
- (b) Person.
- (c) Act.
- (d) Carriers Taxing Act.
- (e) Tax.
- (f) Employees' tax.
- (g) Employers' tax.
- (h) Secretary.
- (i) Commissioner.
- (j) Collector.
- (k) Social Security Board.
- (l) Cross references.

Section 811 (b) of the Act

Article 2. Employment.

Article 3. Who are employees.

Article 4. Who are employers.

Section 811 (b) of the Act

Article 5. Excepted services generally.

Section 811 (b) (1) of the Act

Article 6. Agricultural labor.

Section 811 (b) (2) of the Act

Article 7. Domestic service.

Section 811 (b) (3) of the Act

Article 8. Casual labor not in the course of employer's trade or business.

Section 811 (b) (4) of the Act

Article 9. Employees who have attained age 65.

Section 811 (b) (5) of the Act

Article 10. Officers and members of crews.

Section 811 (b) (6) and (7) of the Act

Article 11. Government employees.

Section 811 (b) (8) of the Act

Article 12. Religious, charitable, scientific, literary, and educational organizations and community chests.

Sections 1 (a), (b), and (c) and 11 of the Carriers Taxing Act

Article 13. Carrier employees.

Section 811 (a) of the Act

Section 1101 (c) of the Act

Article 14. Wages.

Article 15. Exclusion from wages.



Published by the Division of the FEDERAL REGISTER, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 5 cents; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the FEDERAL REGISTER, The National Archives, Washington, D. C.

TABLE OF CONTENTS

Federal Trade Commission:	
Orders appointing examiners, etc., in matter of:	Page
Everlast Suit Case and Bag Co. (Israel Zaveloff and Harry Bernstein).....	2065
Health Guard, Inc.....	2066
Mutual Brief Case Co., Inc.....	2066
Interstate Commerce Commission:	
Applications for relief from long-and-short-haul provision, Interstate Commerce Act:	
Mattress felt from Texas.....	2069
Transit shipments in the South.....	2069
Notice of hearings, applications to operate as carriers:	
Davidson, Thomas Carl.....	2068
Hoffman, E. H.....	2066
Hoffman, E. H., Lines, Inc.....	2067, 2068
Moore, B. F.....	2068
Rosenblum, N. E.....	2069
Securities and Exchange Commission:	
Notice of hearings:	
General Paint Corp.....	2070
Hamilton Manufacturing Co.....	2071
Industrial Investment Corp.....	2071
Major Metals Corp.....	2071
St. Louis Car Co.....	2071
Order consenting to filing of amendment to registration statement:	
Hess Oil Co.....	2072
Orders for continuance, offering sheets by:	
Barrett, Andrew J.....	2072
Beck, A. D.....	2072
Order terminating proceeding, offering sheet by:	
Hose, T. S.....	2073
Securities Exchange Act of 1934:	
Adoption of Rule KA7—Current reports.....	2069
Rule adopting Form 8-K.....	2070
Suspension orders, etc., offering sheets by:	
Daniel, W. J.....	2073
Johnson, James M.....	2074
Treasury Department:	
Bureau of Customs:	
Customs regulations amended—Denaturing vegetable oils.....	2049
Rochester Municipal Airport, N. Y., designated an airport of entry.....	2040
Bureau of Internal Revenue:	
Employees' tax and employers' tax under Title VIII of Social Security Act (Regulations 91).....	2049
Tax on admissions.....	2065

Article 16. Items included as wages.

- (a) General.
- (b) Dismissal pay.
- (c) Traveling and other expenses.
- (d) Premiums on life insurance.
- (e) Deductions by an employer from remuneration of an employee.
- (f) Payments by employers into employees' funds.

CHAPTER II

Employees' Tax

Section 801 of the Act

- Article 201. Measure of employees' tax.
 Article 202. Rates and computation of employees' tax.
 Article 203. When employees' tax attaches.

Section 802 (a) of the Act

Section 607 of the Revenue Act of 1934

- Article 204. Collection of, and liability for, employees' tax.
 Article 205. Manner and time of payment of employees' tax.
 Article 206. Statements of tax deductions to be furnished to employees.

CHAPTER III

Employers' Tax

Section 804 of the Act

- Article 301. Measure of employers' tax.
 Article 302. Rates and computation of employers' tax.
 Article 303. When employers' tax attaches.
 Article 304. Liability for employers' tax.
 Article 305. Manner and time of payment of employers' tax.

CHAPTER IV

Returns, Payment of Tax, and Records

Section 807 of the Act

- Section 602 of the Revenue Act of 1926, made applicable by Section 807 (c) of the Act

- Section 1102 of the Revenue Act of 1926, made applicable by Section 807 (c) of the Act

- Section 3165 of the United States Revised Statutes, as Amended

- Section 1104 of the Revenue Act of 1926, as Amended by Section 618 of the Revenue Act of 1928, made applicable by Section 807 (c) of the Act

- Section 3176 of the United States Revised Statutes, as Amended by Section 1103 of the Revenue Act of 1926 and Section 619 (d) of the Revenue Act of 1928

- Article 401. Monthly tax returns.
 Article 402. Initial and quarterly information returns.
 (a) General requirements.
 (b) Initial information return.
 (c) Quarterly information returns.
 Article 403. Information returns for employees who attain age 65 or die.
 Article 404. Final returns.
 Article 405. Special returns.
 Article 406. Use of numbers assigned to employers and employees under Title VIII.
 Article 407. Execution of returns.
 Article 408. Use of prescribed forms.
 Article 409. Place and time for filing returns.
 Article 410. Payment of tax.
 Article 411. When fractional part of cent may be disregarded.
 Article 412. Records.
 (a) Records of employers.
 (b) Records of employees.
 (c) Copies of returns, schedules, and statements.
 (d) Records of overpayments.
 (e) Place and period for keeping records.

CHAPTER V

Erroneous Collection or Payment of Tax

Section 802 (b) of the Act

Section 805 of the Act

- Article 501. Adjustments in general.
 Article 502. Adjustment of employees' tax.
 (a) Undercollections:
 (1) Prior to filing of return.
 (2) After return is filed.
 (b) Overcollections:
 (1) Prior to filing of return.
 (2) After return is filed.
 Article 503. Adjustment of employers' tax.
 (a) Underpayments.
 (b) Overpayments.

Section 806 of the Act

Section 1120 of the Revenue Act of 1926, made applicable by Section 807 (c) of the Act.

Section 3220 of United States Revised Statutes, as Amended by Section 1111 of the Revenue Act of 1926 and Section 619 (b) of the Revenue Act of 1923

Section 3228 (a) of United States Revised Statutes, as amended by Section 1112 of the Revenue Act of 1926 and Section 619 (c) of the Revenue Act of 1923 and Section 1106 of the Revenue Act of 1932

Section 3477 of United States Revised Statutes

Article 504. Credit or refund of overpayments which are not adjustable.

Section 806 of the Act

Article 505. Assessment of underpayments.

CHAPTER VI

Miscellaneous Provisions

JEOPARDY ASSESSMENT

Section 1105 of the Revenue Act of 1932, as Amended by Section 510 of the Revenue Act of 1934

Article 601. Jeopardy assessment.

INTEREST AND PENALTIES

Section 807 (a) of the Act

Section 3184 of United States Revised Statutes

Section 404 of the Revenue Act of 1935

Article 602. Interest.

Article 603. Penalty for failure to pay an assessment after notice and demand.

Section 3176 of the United States Revised Statutes, as Amended by Section 1103 of the Revenue Act of 1926 and Section 619 (d) of the Revenue Act of 1923

Section 406 of the Revenue Act of 1935

Article 604. Penalties for delinquent or false returns.

(a) Delinquent returns.

(b) False returns.

ADDITIONAL PENALTIES

Section 1114 of the Revenue Act of 1926, made applicable by Section 807 (c) of the Act

Section 35 of the Criminal Code of the United States, as Amended

RETROACTIVITY OF REGULATIONS

Section 1108 (a) of the Revenue Act of 1926, as Amended by Section 605 of the Revenue Act of 1928 and Section 506 of the Revenue Act of 1934

AUTHORITY FOR REGULATIONS

Section 808 of the Act

INTRODUCTORY

These regulations relate to the employees' tax and the employers' tax imposed by Title VIII of the Social Security Act, approved August 14, 1935 (Public, No. 271, Seventy-fourth Congress; 49 Stat. 620).

Chapter I defines terms that are used in the Act and in these regulations.

Chapter II deals with the employees' tax.

Chapter III deals with the employers' tax.

Chapter IV deals with returns, payment of tax, and records.

Chapter V deals with erroneous collection and payment of tax, including the adjustment thereof.

Chapter VI contains miscellaneous provisions and deals with jeopardy assessments, interest, and penalties.

The applicable provisions of the Act, as well as certain applicable provisions of internal revenue laws of particular importance, will be found in the appropriate places in, and are to be read in connection with, these regulations.

For convenient reference, see the Treasury Decision relating to the assignment of account numbers to employees and identification numbers to employers under Title VIII of the Act, printed in the Appendix to these regulations.

CHAPTER I

Definitions

SECTION 1101 (A) AND (B) OF THE ACT

(a) When used in this Act—

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

(2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes association, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

SECTION 811 OF THE ACT

When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed by an individual who has attained the age of sixty-five;

(5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(6) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

SECTION 11 OF THE CARRIERS TAXING ACT

The term "employment", as defined in subsection (b) of section 811 of Title VIII of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of this Act.

ARTICLE I. General definitions and use of terms.—As used in these regulations—

(a) The terms defined in the above provisions of law shall have the meanings so assigned to them.

(b) *Person* includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation, or venture is carried on. It includes a guardian, committee, trustee, executor, administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, conservator, or any person acting in a fiduciary capacity.

(c) *Act* means the Social Security Act (Public, No. 271, Seventy-fourth Congress; 49 Stat. 620).

(d) *Carriers Taxing Act* means the Act entitled "An Act To levy an excise tax upon carriers and an income tax upon their employees, and for other purposes", approved August 29, 1935 (Public, No. 400, Seventy-fourth Congress; 49 Stat. 974).

(e) *Tax* means either the employees' tax or the employers' tax as respectively defined in this article.

(f) *Employees' tax* means the tax imposed by section 801 of the Act.

(g) *Employers' tax* means the tax imposed by section 804 of the Act.

(h) *Secretary* means the Secretary of the Treasury.

(i) *Commissioner* means the Commissioner of Internal Revenue.

(j) *Collector* means collector of internal revenue.

(k) *Social Security Board* means the board established pursuant to Title VII of the Act.

(l) The cross references in these regulations to other portions of the regulations, when the word "see" is used, are made only for convenience, and shall be given no legal effect.

SECTION 811 (b) OF THE ACT

The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except . . .

ART. 2. Employment.—All services performed within the United States by an employee for his employer, unless specifically excepted by section 811 (b) of the Act or section 11 of the Carriers Taxing Act, constitute "employment" within the meaning of Title VIII of the Act. To constitute an employment the legal relationship of employer and employee must exist between the person for whom the services are performed and the individual who performs them, and the services involved must be performed within the United States, that is, within any of the several States, the District of Columbia, or the Territory of Alaska or Hawaii. (See articles 3 and 4 as to who are employees and employers, respectively, and articles 5 to 13, inclusive, relating to excepted services.)

To the extent that an employee performs services outside of the United States for the person who employs him, he is not in an employment.

The place where the contract for services is entered into and the citizenship or residence of the employee or of the employer are immaterial. Thus, the employee and the employer may be citizens and residents of a foreign country and the contract for the services may be entered into in a foreign country, and yet, if the employee under such contract actually performs services within the United States, there may be to that extent an employment within the meaning of Title VIII of the Act.

ART. 3. Who are employees.—Every individual is an employee within the meaning of Title VIII of the Act if he performs services in an employment as defined in section 811 (b) (see article 2).

However, the relationship between the person for whom such services are performed and the individual who performs such services must as to those services be the legal relationship of employer and employee. Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to *what* shall be done but *how* it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work, to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee.

Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an independent trade, business, or profession, in which they offer their services to the public, are independent contractors and not employees.

Whether the relationship of employer and employee exists will in doubtful cases be determined upon an examination of the particular facts of each case.

If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee is immaterial. Thus, if such relationship exists, it is of no consequence that the employee is designated as a partner, coadventurer, agent, or independent contractor.

The measurement, method, or designation of compensation is also immaterial, if the relationship of employer and employee in fact exists.

Title VIII of the Act makes no distinction between classes or grades of employees. Thus, superintendents, managers, and other superior employees are employees. An officer of a corporation is an employee of the corporation, but a director, as such, is not. A director may be an employee of the corporation, however, if he performs services for the corporation other than those required by attendance at and participation in meetings of the board of directors.

ART. 4. Who are employers.—Every person is an employer who employs one or more individuals in an employment, that is, for the performance within the United States of services not specifically excepted. The number of individuals employed by the employer and the period during which any such individual is so employed is immaterial. (For definition of employment see article 2, and for excepted services see articles 5 to 13, inclusive.)

An employer may be an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. An employer may be a person acting in a fiduciary capacity or on behalf of another, such as a guardian, committee, trustee, executor or administrator, trustee in bankruptcy, receiver, assignee for the benefit of creditors, or conservator.

SECTION 811 (b) OF THE ACT

The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except . . .

ART. 5. Excepted services generally.—Even though an individual performs services within the United States for the person who employs him, if the services are of a class which is specifically excepted by section 811 (b) of the Act or section 11 of the Carriers Taxing Act, they are included for the purposes of the tax.

The exception attaches to the services performed by the employee and not to the employee as an individual; and the exception applies only for the period during which the individual is rendering services in an excepted class.

Example: A, who operates a farm and also a grocery store, employs B for \$10 a week. B works on the farm five days of the week and works for one day of the week as a clerk in the grocery store. If the services which B performs on the farm constitute "agricultural labor" (see article 6), such services are excepted; the services performed as a clerk in the grocery store are, however, not excepted. In computing the amount of "wages" paid to B the part of the weekly salary of \$10 which is attributable to the work on the farm is excluded, while the amount which is attributable to the work performed in the grocery store is included.

SECTION 811 (b) OF THE ACT

The term "employment" means any service . . . except—
(1) Agricultural labor; . . .

ART. 6. Agricultural labor.—The term "agricultural labor" includes all services performed—

(a) By an employee, on a farm, in connection with the cultivation of the soil, the raising and harvesting of crops, or the raising, feeding, or management of live stock, bees, and poultry; or

(b) By an employee in connection with the processing of articles from materials which were produced on a farm; also the packing, packaging, transportation, or marketing of those materials or articles. Such services do not constitute agricultural labor, however, unless they are performed by an employee of the owner or tenant of the farm on which the materials in their raw or natural state were produced, and unless such processing, packing, packaging, transportation, or marketing is carried on as an incident to ordinary farming operations as distinguished from manufacturing or commercial operations.

As used herein the term "farm" embraces the farm in the ordinarily accepted sense, and includes stock, dairy, poultry, fruit, and truck farms, plantations, ranches, ranges, and orchards.

Forestry and lumbering are not included within the exception granted by section 811 (b).

SECTION 811 (b) OF THE ACT

The term "employment" means any service * * * except—

- (2) Domestic service in a private home; * * *

ART. 7. Domestic service.—Services of a household nature performed by an employee in or about the private home of the person by whom he is employed are within the above exception.

A private home is the fixed place of abode of an individual or family.

If the home is utilized primarily for the purpose of supplying board or lodging to the public as a business enterprise, it ceases to be a private home.

In general, services of a household nature in or about a private home include services rendered by cooks, maids, butlers, valets, laundresses, furnacemen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use.

The services above enumerated are not within the exception if performed in or about rooming or lodging houses, boarding houses, fraternity houses, clubs, hotels, or commercial offices or establishments.

Services performed as a private secretary, even though performed in the employer's home, are not within the exception.

SECTION 811 (b) OF THE ACT

The term "employment" means any service * * * except—

- (3) Casual labor not in the course of the employer's trade or business; * * *

ART. 8. Casual labor not in the course of employer's trade or business.—The term "casual labor" includes labor which is occasional, incidental, or irregular.

The expression "not in the course of the employer's trade or business" includes labor that does not promote or advance the trade or business of the employer.

Thus, labor which is occasional, incidental, or irregular, and does not promote or advance the employer's trade or business is excepted.

Example 1.—A's business is that of operating a sawmill. He employs B, a painter, at a daily wage to paint his home. B's labor is casual and is not in the course of A's trade or business—that of operating a sawmill. B's services to A are therefore excepted.

Casual labor, that is, labor which is occasional, incidental, or irregular, but which is in the course of the employer's trade or business does not come within the above exception.

Example 2.—A's business is that of operating a sawmill. He employs B for two hours, at an hourly wage, to remove sawdust from his mill. B's labor is casual since it is occasional, incidental, or irregular, but it is in the course of A's trade or business—that of operating a sawmill—and is not excepted.

Example 3.—A is engaged in the business of operating a department store. He employs additional clerks for short periods. While the services of the clerks are casual, they are in the course of the employer's trade or business and, therefore, not excepted.

Casual labor performed for a corporation does not come within this exception.

SECTION 811 (b) OF THE ACT

The term "employment" means any service * * * except—

- (4) Service performed by an individual who has attained the age of sixty-five; * * *

ART. 9. Employees who have attained age 65.—Services performed by an individual after he has attained the age of 65 years are excepted. The employer has the burden of establishing to the satisfaction of the Commissioner the age of any employee whose services are claimed to be excepted by reason of his having attained the age of 65. All services performed by an individual on and after the day preceding the sixty-fifth anniversary of his birth are within this exception. (See article 403, relating to information returns.)

SECTION 811 (b) OF THE ACT

The term "employment" means any service * * * except—

- (5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country; * * *

ART. 10. Officers and members of crews.—The expression "officers and members of the crew" includes the master or officer in charge of the vessel, however designated, and every individual, subject to his authority, serving on board and contributing in any way to the operation and welfare of the vessel. The exception extends, for example, to services rendered by the master, mates, pilots, pursers, surgeons, stewards, engineers, firemen, cooks, clerks, carpenters, deck hands, porters, and chambermaids, and by seal hunters and fishermen on sealing and fishing vessels.

The word "vessel" includes every description of watercraft or other contrivance, used as a means of transportation on water. It does not include any type of aircraft.

The expression "vessel documented under the laws of the United States or of any foreign country" means a vessel which is registered, enrolled, or licensed in conformity with the laws of the United States or any foreign country.

SECTION 811 (b) OF THE ACT

The term "employment" means any service * * * except—

- (6) Service performed in the employ of the United States Government or of an instrumentality of the United States;
(7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions; * * *

ART. 11. Government employees.—Services performed by Federal and State employees are excepted. The exception extends to every service performed by an individual in the employ of the United States, the several States, the District of Columbia, or the Territory of Alaska or Hawaii, or any political subdivision or instrumentality thereof, including every unit or agency of government, without distinction between those exercising functions of a governmental nature and those exercising functions of a proprietary nature.

SECTION 811 (b) OF THE ACT

The term "employment" means any service * * * except—

- (8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

ART. 12. Religious, charitable, scientific, literary, and educational organizations and community chests.—Services performed by any employee of an organization of the class specified in section 811 (b) (8) are excepted.

For the purpose of the exception the nature of the service is immaterial; the statutory test is the character of the organization for which the service is performed.

In all cases, in order to establish its status under the statutory classification, the organization must meet two tests:

- (1) It must be organized and operated exclusively for one or more of the specified purposes; and
- (2) Its net income must not inure in whole or in part to the benefit of private shareholders or individuals.

Corporations or other institutions organized and operated exclusively for charitable purposes comprise, in general, organizations for the relief of the poor. The fact that an organization established for the relief of indigent persons may receive voluntary contributions from the persons intended to be relieved will not necessarily affect its status under the law.

An educational organization within the meaning of section 811 (b) (8) of the Act is one designed primarily for the improvement or development of the capabilities of the individual, but, under exceptional circumstances, may include an association whose sole purpose is the instruction of the public,

or an association whose primary purpose is to give lectures on subjects useful to the individual and beneficial to the community, even though an association of either class has incidental amusement features. An organization formed, or availed of, to disseminate controversial or partisan propaganda or which by any substantial part of its activities attempts to influence legislation is not an educational organization within the meaning of section 811 (b) (8) of the Act.

Since a corporation or other institution to be within the prescribed class must be organized and operated exclusively for one or more of the specified purposes, an organization which has certain religious purposes and also manufactures and sells articles to the public for profit is not within the statutory class even though its property is held in common and its profits do not inure to the benefit of individual members of the organization.

An organization otherwise within the statutory class does not lose its status as such by receiving income such as rent, dividends, and interest from investments, provided such income is devoted exclusively to one or more of the purposes specified in section 811 (b) (8) of the Act.

Money contributed by members of an organization to a common fund to be applied to the relief of the particular members of the organization or their families when in sickness, unemployed, in want, or under other disability, is not a charitable fund.

If an organization has established its status under section 811 (b) (8) of the Act, it need not thereafter make a return or any further showing with respect to its status under Title VIII of the Act unless it changes the character of its organization or operations or the purpose for which it was originally created. Collectors will keep a list of all such organizations, to the end that they may occasionally inquire into their status and ascertain whether they are observing the conditions upon which their classification is predicated.

SECTIONS 1 (A), (B), AND (C), AND 11 OF THE CARRIERS TAXING ACT

SECTION 1. That as used in this Act—

(a) The term "carrier" means any express company, sleeping-car company, or carrier by railroad, subject to the Interstate Commerce Act, and any company which may be directly or indirectly owned or controlled thereby or under common control therewith, and which operates any equipment or facilities or performs any service (other than trucking service) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of and operating the business of any such "carrier": *Provided, however,* That the term "carrier" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Commissioner of Internal Revenue or upon complaint of any party interested to determine after hearing whether any line operated by electric power falls within the terms of this proviso.

(b) The term "employee" means (1) each person who at or after the enactment hereof is in the service of a carrier, and (2) each officer or other official representative of an "employee organization", herein called "representative", who before or after the effective date has performed service for a carrier, who is duly designated and authorized to represent employees under and in accordance with the Railway Labor Act, and who, during, or immediately following employment by a carrier, was or is engaged in such representative service in behalf of such employees.

(c) A person shall be deemed to be in the service of a carrier whenever he may be subject to its continuing authority to supervise and direct the manner of rendition of his service, for which service he receives compensation.

SEC. 11. The term "employment", as defined in subsection (b) of section 811 of Title VIII of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of this Act.

ART. 13. *Carrier employees.*—Services performed as an employee of a carrier, within the meaning of the Carriers Taxing Act, are excepted. Services performed for an organization of such employees by a representative within the meaning of the Carriers Taxing Act are also excepted; and this exception extends not only to services in his capacity as a representative, but also to any other services performed by him for the organ-

ization. See Regulations 93, articles 3 and 5, for definitions of employee and representative under such Act.

SECTION 811 (A) OF THE ACT

The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

SECTION 1101 (C) OF THE ACT

Whenever under this Act or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

ART. 14. *Wages.*—The term "wages" means all remuneration for employment (see article 2). If, however, the remuneration paid for employment performed during any calendar year by an employee for the same employer exceeds \$3,000, the term does not include that part of such remuneration in excess of the first \$3,000 thereof.

The \$3,000 limitation applies only if the remuneration received by an employee from the same employer for employment during any one calendar year exceeds \$3,000. The limitation relates to remuneration for employment during any one calendar year and not to the amount of remuneration (irrespective of the year of employment) which is paid or received in any one calendar year.

Example 1.—Employee A, in 1937, receives \$2,500 from employer B on account of \$3,000 due him for services performed in 1937. In 1938 A receives from employer B the balance of \$500 due him for services performed in the prior year (1937) and also \$3,000 for services performed in 1938. Although A actually receives total remuneration of \$3,500 during the calendar year 1938, that entire amount is subject to tax, i. e., \$3,000 with respect to employment during 1938 and \$500 with respect to employment during 1937 (this \$500 added to the \$2,500 paid in 1937 constitutes the maximum wages which could be received from any one employer by A, with respect to employment during the calendar year 1937).

If the employee has more than one employer during the calendar year, the limitation of wages to the first \$3,000 of remuneration received applies to remuneration received from each employer with respect to employment during that year.

Example 2.—Employee A receives from employer B a salary of \$600 a month for employment by B during the first seven months of 1937, or a total remuneration of \$4,200. At the end of the fifth month A has received \$3,000 from employer B, and only that part of his total remuneration from B constitutes wages, subject to the tax. The \$600 received by employee A from employer B for employment during the sixth month, and the like amount received for employment during the seventh month is not included in wages and is not subject to the tax. At the end of the seventh month A leaves the employ of B and enters the employ of C. A receives remuneration of \$600 a month from C for the remaining five months of 1937, or a total remuneration of \$3,000 from C. The entire \$3,000 received by A from C constitutes wages and is subject to the tax. Thus, the first \$3,000 received from B and the entire \$3,000 received from C constitute wages.

Example 3.—A is simultaneously an officer (an employee) of the X corporation, the Y corporation, and the Z corporation during the calendar year 1937, and receives a salary of \$3,000 from each corporation. Each \$3,000 received by A from each of the corporations X, Y, and Z (whether or not such corporations are related), constitutes wages, and is subject to the tax.

Remuneration paid for employment and not excluded by the \$3,000 limitation constitutes wages even though at the time paid the relationship of employer and employee no longer exists between the person for whom the services were performed and the individual who performed them.

Example 4.—A is employed by B during the month of January 1937, in an employment and for the services then performed for B, the employer, is entitled to receive remuneration of \$100. A leaves B's employ at the close of business on January 31, 1937. On February 15, 1937 (when A is no longer an employee of B), B pays A the remuneration of \$100 which was earned for the services performed in January. The \$100 is wages within the meaning of the Act, and the tax is payable with respect thereto.

The name by which the remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, and commissions on sales or on insurance premiums, are wages within the meaning of the Act if paid by an employer to his employee as compensation for employment.

The basis upon which the remuneration is paid and the time of payment, are immaterial in determining whether the remuneration constitutes wages. Thus, it may be paid on the basis of piecework, or a percentage of profits; and it may be paid hourly, daily, weekly, monthly, or annually.

The medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, such as goods, lodging, food, and clothing.

The amount of any tax which is required by section 802 (a) to be deducted by the employer from the remuneration of an employee is considered to be a part of the employee's wages, and is deemed to have been paid to the employee as wages at the time that the deduction was made.

Ordinarily, facilities or privileges (such as entertainment, cafeterias, restaurants, medical services, or so-called courtesy discounts on purchases), furnished or offered by an employer to his employees generally, are not considered as remuneration for services if such facilities or privileges are offered or furnished by the employer merely as a means of promoting the health, good will, contentment, or efficiency of his employees.

(See articles 15, 16, 201, and 301.)

Art. 15. Exclusion from wages.—The following are excluded from the computation of wages:

(a) All remuneration for services which are excepted by section 811 (b) of the Act or section 11 of the Carriers Taxing Act, or which are performed outside of the United States. (See articles 5 to 13, inclusive.)

(b) All remuneration for services during a particular calendar year, after the first \$3,000 has been paid by the employer to the employee with respect to employment during that calendar year. (See article 14.)

(c) Tips or gratuities paid directly to an employee by a customer of an employer, and not in any way accounted for by the employee to the employer.

Art. 16. Items included as wages.—(a) *General.*—Wages paid with respect to employment during any calendar year include items paid in money and the fair value, at the time of payment, of all items other than money.

(b) *Dismissal pay.*—Payment to an employee of so-called dismissal pay, vacation allowances, or sick pay, constitutes wages.

(c) *Traveling and other expenses.*—Amounts paid to traveling salesmen or other employees as allowance or reimbursement for traveling or other expenses incurred in the business of the employer constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the employee.

(d) *Premiums on life insurance.*—Generally, premiums paid by an employer on a policy of life insurance covering the life of an employee constitute wages if the employer is not a beneficiary under the policy. However, premiums paid by an employer on policies of group life insurance covering the lives of his employees are not wages, if the employee has no option to take the amount of the premiums instead of accepting the insurance and has no equity in the policy (such as the right of assignment or the right to the surrender value on termination of his employment).

(e) *Deductions by an employer from remuneration of an employee.*—Amounts deducted from the remuneration of an employee by an employer constitute wages paid to the employee at the time of such deduction. It is immaterial that

the Act, or any Act of Congress or the law of any State, requires or permits such deduction and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

(f) *Payments by employers into employees' funds.*—Payments made by an employer into a stock bonus, pension, or profit-sharing fund constitute wages if such payments inure to the exclusive benefit of the employee and may be withdrawn by the employee at any time, or upon resignation or dismissal, or if the contract of employment requires such payments as part of the compensation. Whether or not under other circumstances such payments constitute wages depends upon the particular facts of each case.

CHAPTER II

Employees' Tax

SECTION 801 OF THE ACT

In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

- (1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.
- (2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be $1\frac{1}{2}$ per centum.
- (3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.
- (4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be $2\frac{1}{2}$ per centum.
- (5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

Art. 201. Measure of employees' tax.—The employees' tax is measured by the amount of wages actually or constructively received on and after January 1, 1937, with respect to employment on and after such date. (See article 2, relating to employment, and articles 14, 15, and 16, relating to wages.)

Art. 202. Rates and computation of employees' tax.—The rates of employees' tax applicable for the respective calendar years are as follows:

	Per cent
For the calendar years 1937, 1938, and 1939.....	1
For the calendar years 1940, 1941, and 1942.....	$1\frac{1}{2}$
For the calendar years 1943, 1944, and 1945.....	2
For the calendar years 1946, 1947, and 1948.....	$2\frac{1}{2}$
For the calendar year 1949 and subsequent calendar years.....	3

The employees' tax is computed by applying to the wages received by the employee the rate in effect at the time of the performance of the services for which the wages were received.

Example.—During 1939 A is an employee of B and is engaged in an employment (see article 2). In the following year, 1940, B, the employer, pays A \$1,000 as remuneration for the services which were performed by A in the preceding year. The tax is payable at the 1 per cent rate in effect for the calendar year 1939 (the year of the employment), and not at the $1\frac{1}{2}$ per cent rate which is in effect for the calendar year 1940 (the year in which the wages were paid).

Art. 203. When employees' tax attaches.—The employees' tax attaches at the time that the wages are either actually or constructively received by the employee. Wages are constructively received when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute receipt in such a case the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their receipt brought within his own control and disposition. (See article 303, relating to the time the employers' tax attaches.)

SECTION 802 (A) OF THE ACT

The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

SECTION 807 OF THE REVENUE ACT OF 1934

Whenever any person is required to collect or withhold any internal-revenue tax from any other person and to pay such tax over to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

ART. 204. Collection of, and liability for, employees' tax.—The employer shall collect from each of his employees the employees' tax with respect to wages for employment performed for the employer by the employee. The employer shall make the collection by deducting or causing to be deducted the amount of the employees' tax from such wages as and when paid, either actually or constructively. The employer is required to collect the tax, notwithstanding the wages are paid in something other than money for example, wages paid in stock, board, lodging; see article 16 (a)), and to pay the tax to the collector in money. In collecting employees' tax, the employer shall disregard any fractional part of a cent of such tax unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. The employer is liable for the employees' tax on all wages paid by him to each of his employees whether or not it is collected from the employee. If, for example, the employer deducts less than the correct amount of tax, or if he fails to deduct any part of the tax, he is nevertheless liable for the correct amount of the tax. Until collected from him the employee is also liable for the employees' tax with respect to all the wages received by him. Any employees' tax collected by or on behalf of an employer is a special fund in trust for the United States. The employer is indemnified against the claims and demands of any person for the amount of any payment of such tax made by the employer to the collector. (As to wages see articles 14, 15, and 16.)

Section 1114 of the Revenue Act of 1926 (see page 38, these regulations) provides severe penalties for a willful failure to collect, or truthfully to account for and pay over, the employees' tax or for a willful attempt in any manner to evade or defeat the tax. Such penalties may be incurred by any person, including the employer, and any officer or employee of a corporate employer, or member or employee of any other employer, who as such employer, officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

ART. 205. Manner and time of payment of employees' tax.—The employees' tax is payable to the collector in the manner and at the time prescribed in article 410.

ART. 206. Statements of tax deductions to be furnished to employees.—At the time each payment of wages is made to an employee his employer shall furnish a written statement to the employee showing the amount of employees' tax deducted from such wages. No form is prescribed for such statement. The employer may use any means suitable for the purpose which provides the employee at the time of payment with information in writing of the amount which constitutes the deduction on account of the tax imposed by section 801 of the Social Security Act, as distinguished from any other deductions.

CHAPTER III

Employers' Tax

SECTION 804 OF THE ACT

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

- (1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.
- (2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.
- (3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.
- (4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.
- (5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

ART. 301. Measure of employers' tax.—The employers' tax is measured by the amount of wages actually or constructively paid on and after January 1, 1937, with respect to employment on and after such date. (See article 2, relating to employment, and articles 14, 15, and 16, relating to wages.)

ART. 302. Rates and computation of employers' tax.—The rates of employers' tax applicable for the respective calendar years are as follows:

	Per cent
For the calendar years 1937, 1938, and 1939.....	1
For the calendar years 1940, 1941, and 1942.....	1½
For the calendar years 1943, 1944, and 1945.....	2
For the calendar years 1946, 1947, and 1948.....	2½
For the calendar year 1949 and subsequent calendar years.....	3

The employers' tax is computed by applying to the wages paid by the employer the rate in effect at the time of the performance of the services for which the wages were paid. (See the example in article 202.)

ART. 303. When employers' tax attaches.—The employers' tax attaches at the time that the wages are either actually or constructively paid by the employer. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the wages must be credited or set apart to the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn at any time, and their payment brought within his own control and disposition. (See article 203, relating to the time the employees' tax attaches.)

ART. 304. Liability for employers' tax.—The employer is liable for the employers' tax with respect to the wages paid to his employees for employment performed for him.

ART. 305. Manner and time of payment of employers' tax.—The employers' tax is payable to the collector in the manner and at the time prescribed in article 410.

CHAPTER IV

Returns, Payment of Tax, and Records

SECTION 807 OF THE ACT

(a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. * * *

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue Act of 1934, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to the taxes imposed by this title.

(d) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

SECTION 602 OF THE REVENUE ACT OF 1926, MADE APPLICABLE BY SECTION 807 (c) OF THE ACT

Every person liable for any tax * * * shall make monthly returns under oath * * * and pay the taxes * * * to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. * * *

SECTION 1102 OF THE REVENUE ACT OF 1926, MADE APPLICABLE BY SECTION 807 (c) OF THE ACT

(a) Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon him, to make a return, render under oath such statements, or keep such records as the Commissioner deems sufficient to show whether or not such person is liable to tax.

(c) The Commissioner, with the approval of the Secretary, may by regulations prescribe that any return required by any internal revenue law (except returns required under income or estate tax laws) to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

(d) Any oath or affirmation required by the provisions of this Act or regulations made under authority thereof may be administered by any officer authorized to administer oaths for general purposes by the law of the United States or of any State, Territory, or possession of the United States, wherein such oath or affirmation is administered, or by any consular officer of the United States.

SECTION 3165 OF THE UNITED STATES REVISED STATUTES, AS AMENDED

Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

SECTION 1104 OF THE REVENUE ACT OF 1926, AS AMENDED BY SECTION 618 OF THE REVENUE ACT OF 1928, MADE APPLICABLE BY SECTION 807 (c) OF THE ACT

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any officer or employee of the Bureau of Internal Revenue, including the field service, designated by him for that purpose, to examine any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

SECTION 3176 OF THE UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1103 OF THE REVENUE ACT OF 1926 AND SECTION 619 (d) OF THE REVENUE ACT OF 1928

If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner of Internal Revenue may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

ART. 401. *Monthly tax returns.*—Every employer (see article 4) shall make a monthly tax return, in quadruplicate, on Form SS-1 for each calendar month, beginning with January 1937. See, however, article 404, relating to final returns.

ART. 402. *Initial and quarterly information returns.*—(a) *General requirements.*—Every employer is required periodically to make an information return (1) containing a summary of taxable wages paid to his employees and of the taxes with respect to such wages, and (2) reporting the taxable wages paid to each of his employees. The period to be covered by each such return is set forth in subdivisions (b) and (c) of this article. Form SS-2 is prescribed for reporting the summary information and form SS-2a is prescribed for reporting the wages of individual employees. The employer shall prepare and attach to Form SS-2 a separate Form SS-2a for each of his employees who received taxable wages during the period covered by the return. Form SS-2 shall be filed in duplicate, but only one original copy of Form SS-2a shall be filed for each employee. Such forms together constitute an information return under this article. Taxable wages paid to an employee who has attained age 65 or died before attaining age 65 shall be reported on Forms SS-2 and SS-2a, as well as on Form SS-3. See article 403, relating to information returns on Form SS-3, article 404, relating to final returns, and article 406, requiring every employer to show his identification number and the account number of each of his employees on each return under this article.

(b) *Initial information return.*—Every employer shall make an information return on Forms SS-2 and SS-2a for the period January 1, 1937, to June 30, 1937, both dates inclusive.

(c) *Quarterly information returns.*—Every employer shall make an information return on Forms SS-2 and SS-2a for the period July 1, 1937, to September 30, 1937, both dates inclusive, and for each subsequent period of three calendar months ending December 31, March 31, June 30, and September 30.

ART. 403. *Information returns for employees who attain age 65 or die.*—Every employer shall make an information return on Form SS-3 with respect to each of his employees who attains age 65 or dies before attaining age 65. A separate return shall be made for each such employee. In addition to reporting the attainment of age 65 or death of an employee, the return shall show (1) the taxable wages paid during the period covered by the return for services of the employee, and (2) all remuneration which has not been paid but which when paid will constitute wages subject to tax for services of the employee. If the exact amount of such remuneration is not known, the fair estimated amount thereof shall be shown. The return on Form SS-3 for an employee who attains age 65 shall be filed on or before the fifteenth day after the date of the sixty-fifth anniversary of his birth. The return on Form SS-3 for an employee who dies before attaining age 65 shall be filed on or before the fifteenth day after the date of death. If the employee attains age 65 or dies on or before June 30, 1937, the return shall cover the period from January 1, 1937, to the date on which the return is completed for filing, both dates inclusive. If the employee attains age 65 or dies on or after July 1, 1937, the return shall cover the period beginning with the first day of the quarter in which the attainment of age 65 or the death occurs and ending on the date on which the return is completed for filing, both dates inclusive. (See article 402 (c) for the 3-month periods which constitute quarters within the meaning of provisions of these regulations relating to returns.) The employer shall attach to and file with each return on Form SS-3 for an employee attaining age 65 satisfactory evidence that the employee has attained such age. No return is required under this article for any employee whose sixty-fifth anniversary of birth occurs on or before January 2, 1937. See article 9, relating to employees who have attained age 65, and article 406, requiring every employer to show his identification number and the account number of the employee involved on each return under this article.

ART. 404. *Final returns.*—The last return on Form SS-1 and the last return on Forms SS-2 and SS-2a, for any person who ceases to be an employer, shall be marked "Final return" by the employer or the person filing the return. Such final returns shall be filed with the collector on or before the thirtieth day after the date on which the final payment of wages subject to tax is made for services performed for the employer. The period covered by each such return shall be plainly written on the return, indicating the date of the final payment of wages. There shall be executed as part of each final return a statement giving the address at which the records of the employer required by article 412 will be kept, and if the employer is deceased or his business terminated or being terminated, the name of the person keeping the records.

ART. 405. *Special returns.*—Notwithstanding any other provision of these regulations, the Commissioner, whenever in his judgment necessary, is authorized to require any person to file any tax or information return at any time pursuant to section 1102 (b) of the Revenue Act of 1926, made applicable by section 807 (b) of the Act.

ART. 406. *Use of numbers assigned to employers and employees under Title VIII.*—Every employer shall enter on every return on Forms SS-2 and SS-2a and on every return on Form SS-3 the identification number assigned to him under Title VIII of the Act. If no identification number has been assigned to the employer prior to the time he files any such return, the employer shall enter on the return the date on which the application therefor on Form SS-4 was filed

(or mailed) by him and the name and address of the agency to which the application was addressed. The account number assigned under Title VIII of the Act to every employee with respect to whom information is required to be reported on Form SS-2a or Form SS-3 shall be entered on such form by the employer. If no account number has been assigned to the employee prior to the time such form is filed, the employer shall enter on the form the date on which the application therefor on Form SS-5 was filed (or mailed) by the employer or employee, the name and address of the agency to which the application was addressed, and the address of the employee if living. All claims made under article 504 shall show the account numbers of employees and identification numbers of employers involved. Every employee shall state his account number in any communication to the office of the Commissioner or a collector relative to his tax liability under Title VIII of the Act. See the Treasury Decision relating to the assignment of account numbers to employees and identification numbers to employers under Title VIII of the Act.

ART. 407. Execution of returns.—Each return shall be signed and (except as provided in this article) verified under oath or affirmation by (1) the individual, if the employer is an individual; (2) the president, vice president, or other principal officer, if the employer is a corporation; or (3) a responsible and duly authorized member having knowledge of its affairs, if the employer is a partnership or other unincorporated organization. Returns on Form SS-3 need not be verified. The oath or affirmation may be administered by any officer duly authorized to administer oaths for general purposes by the law of the United States or of any State or Territory, wherein such oath is administered, or by a consular officer of the United States. Returns executed abroad may be attested free of charge before a United States consular officer. If a foreign notary or other official having no seal acts as attesting officer, the authority of such attesting officer should be certified to by some judicial officer or other proper officer having knowledge of the appointment and official character of the attesting officer. If the sum of the employees' tax and employers' tax shown to be payable by any monthly tax return on Form SS-1 is \$10 or less, the return may be signed or acknowledged before two witnesses instead of under oath. If the sum of the employees' tax and employers' tax reported on any information return on Form SS-2 is \$10 or less, the return may be signed or acknowledged before two witnesses instead of under oath.

ART. 408. Use of prescribed forms.—Each return, together with any prescribed copies and supporting data, shall be filled out and disposed of in accordance with the instructions contained thereon and the regulations applicable thereto. Copies of the prescribed forms may be obtained from collectors. An employer will not be excused from making a return for the reason that no form has been furnished to him. Employers shall make application to the collector for the forms needed in ample time to have their returns prepared, verified, and filed with the collector on or before the due date. The return shall be carefully prepared so as fully and clearly to set forth the data therein called for. Returns which have not been so prepared will not be accepted as meeting the requirements of the Act. In case an employer does not have the form prescribed under article 401, a statement made by the employer disclosing the amount of wages paid during the calendar month with respect to employment performed after December 31, 1936, together with the amount of employers' tax and employees' tax with respect to such wages, may be accepted as a tentative return. If filed within the prescribed time the statement so made will relieve the employer from liability to the penalty imposed for the delinquent filing of the monthly tax return by section 3176 of the United States Revised Statutes, as amended, and section 406 of the Revenue Act of 1935 (see article 604), provided that without unnecessary delay such tentative return is supplemented by a return made on the proper form. Each employer is required to file his own return with

respect to wages for employment performed for him. Consolidated returns of parent and subsidiary corporations are not permitted.

ART. 409. Place and time for filing returns.—Each return shall be filed with the collector for the district in which is located the principal place of business of the employer, or if the employer has no principal place of business in the United States, with the collector at Baltimore, Md. Except as provided in articles 403 and 404, each return shall be filed on or before the last day of the first month following the period for which it is made. If the last day for filing any return falls on Sunday or a legal holiday, the return may be filed on the next following business day. If placed in the mails, the return shall be posted in ample time to reach the collector's office, under ordinary handling of the mails, on or before the due date. As to additions to the tax in the case of failure to file a monthly tax return within the prescribed time, see article 604. See also section 1114 of the Revenue Act of 1926 (page 2062, these regulations), relative to penalties.

ART. 410. Payment of tax.—The employees' tax and the employers' tax required to be reported on the return on Form SS-1 are due and payable to the collector, without assessment by the Commissioner or notice by the collector, at the time fixed for filing such return. For provisions relating to interest and penalties see articles 602, 603, and 604 and section 1114 of the Revenue Act of 1926.

ART. 411. When fractional part of cent may be disregarded.—In the payment of taxes to the collector a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent. Fractional parts of a cent shall not be disregarded in the computation of taxes. See article 204 for provisions relative to fractional parts of a cent in connection with the deduction of employees' tax from wages.

ART. 412. Records.—(a) *Records of employers.*—Every employer liable for tax shall keep accurate records of all remuneration paid to his employees after December 31, 1936, for services performed for him after such date. Such records shall show with respect to each employee—

- (1) the name and address of the employee and the account number assigned to the employee under the Act,
- (2) the occupation of the employee,
- (3) the total amount (including any sum withheld therefrom as tax or for any other reason) and date of each remuneration payment and the period of services covered by such payment,
- (4) the amount of such remuneration payment which constitutes wages subject to tax (see sections 811 (a) and 1101 (c) of the Act and articles 14, 15, and 16), and
- (5) the amount of employees' tax withheld or collected with respect to such payment, and, if collected at a time other than the time such payment was made, the date collected.

If the total remuneration payment (paragraph (3) above) and the amount thereof which is taxable (paragraph (4), above) are not equal, the reason therefor shall be made a matter of record. Accurate records of the details of every adjustment of employees' tax or employers' tax shall also be kept, including the date and amount of each adjustment. (See articles 501, 502, and 503, relating to adjustments.)

No particular form is prescribed for keeping the records required by this subdivision. Each employer shall use such forms and systems of accounting as will enable the Commissioner to ascertain whether the taxes for which the employer is liable are correctly computed and paid.

(b) *Records of employees.*—While not mandatory, it is advisable for each employee, beginning January 1, 1937, to keep permanent accurate records showing the name of each employer for whom he performs services as an employee, the dates of beginning and termination of such services, and the information with respect to himself which is required by subdivision (a) of this article to be kept by employers.

(c) *Copies of returns, schedules, and statements.*—Every employer who is required, by these regulations or by instruc-

tions on any form prescribed under these regulations, to keep any copy of any return, schedule, statement, or other document, shall keep such copy as a part of his records.

(d) *Records of overpayments.*—Every person claiming refund or credit of any overpayment of tax, penalty, or interest shall keep a complete and detailed record of the overpayment.

(e) *Place and period for keeping records.*—All records required by these regulations shall be kept, by the person required to keep them, at some convenient and safe location accessible to internal revenue officers. Such records shall at all times be open for inspection by such officers. Records required by subdivisions (a) and (c) of this article shall be maintained for a period of at least four years after the date the tax to which they relate becomes due, or the date the tax is paid, whichever is the later. Records required by subdivision (d) of this article (including records required by subdivisions (a) and (c)) relating to a claim shall be maintained for a period of at least four years after the date the claim is filed.

CHAPTER V

Erroneous Collection or Payment of Tax

SECTION 802 (b) OF THE ACT

If more or less than the correct amount of tax imposed by section 801 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

SECTION 805 OF THE ACT

If more or less than the correct amount of tax imposed by section 804 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

ART. 501. *Adjustments in general.*—Sections 802 (b) and 805 of the Act provide in certain cases for the adjustment of errors in the payment of employees' tax and employers' tax without the formality of a claim being filed for refund or credit of an overpayment or without formal demand being made by the collector for payment of any additional amount due by reason of an underpayment. Not all corrections of erroneous collections or payments of tax, however, constitute "adjustments" within the meaning of the Act and these regulations. The various situations under which such adjustments shall be made are set forth in articles 502 and 503. Such articles also contain provisions relating to settlement other than by adjustment under certain circumstances set forth therein. Articles 504 and 505 deal further with settlement other than by adjustment. If an employer makes an erroneous collection of employees' tax from two or more of his employees, a separate adjustment must be made with respect to each employee. Thus, an overcollection of employees' tax from one employee may not be used to offset an undercollection of such tax from another. Erroneous payments of employers' tax and of employees' tax must be adjusted separately. No interest shall be allowed or collected with respect to any erroneous collection or payment adjusted pursuant to article 502 or 503.

ART. 502. *Adjustment of employees' tax.*—(a) *Undercollections.*—(1) *Prior to filing of return.*—If no employees' tax or less than the correct amount of employees' tax is deducted from any payment of wages to an employee and the error is discovered prior to the time the return on Form SS-1 is filed with the collector for the month in which such wages are paid, the employer shall nevertheless report on such return and pay to the collector the correct amount of employees' tax. While, in such case, the employer may reimburse himself by deductions from subsequent remuneration of the employee, such deductions do not constitute adjustments within the meaning of this article, and shall not be reported as adjustments on any return on Form SS-1.

(2) *After return is filed.*—If no employees' tax or less than the correct amount of employees' tax is deducted from any payment of wages to an employee, and the correct amount of

such tax is not reported and paid pursuant to paragraph (1), the employer shall adjust the undercollection by deducting the amount thereof from the first remuneration payment for services made to such employee after the error is discovered. Amounts so deducted shall be reported as adjustments on the return on Form SS-1 for the month in which deducted. The undercollection shall be deducted from such first remuneration payment in addition to the employees' tax, if any, which attaches thereto. Such deduction shall be made even though such remuneration payment, for any reason, does not constitute wages (see articles 14, 15, and 16). If the individual whose employees' tax was undercollected leaves the employ of the employer who failed to make the deduction and is entitled to no further remuneration from such employer, the undercollection is not adjustable under this article. In such case if the undercollection has not been reported and paid pursuant to paragraph (1), the employer shall report and pay the tax with the next monthly return on Form SS-1 filed after discovery of the error. No undercollection of employees' tax shall be adjusted after receipt from the collector of formal notice and demand for payment thereof based upon assessment approved by the Commissioner, but the amount shall be paid pursuant to such notice and demand. While in such case the employer may reimburse himself by deductions from remuneration of the employee, such deductions do not constitute adjustments within the meaning of this article and shall not be reported as adjustments on any return on Form SS-1.

(b) *Overcollections.*—(1) *Prior to filing of return.*—If an employer (A) during any calendar month collects more than the correct amount of employees' tax from any employee, and (B) reimburses the employee in the amount of the overcollection prior to the time the return on Form SS-1 for such month is filed with the collector, and (C) obtains and keeps as part of his records the written receipt of the employee, showing the date and amount of the reimbursement, the employer shall not report or pay to the collector the amount of the overcollection. Such reimbursement does not constitute an adjustment within the meaning of this article and shall not be reported as an adjustment on any return on Form SS-1. However, every overcollection not repaid to and receipted for by the employee as provided in this paragraph must be reported and paid to the collector with the return on Form SS-1 for the month in which the overcollection took place.

(2) *After return is filed.*—If an employer collects from any employee and pays to the collector more than the correct amount of employees' tax, the employer shall adjust the overcollection when the first payment of wages is made to the employee after discovery of the error. If the first remuneration payment to the employee after discovery of the error does not for any reason constitute wages (see articles 14, 15, and 16), the adjustment shall be deferred until the first payment of wages is thereafter made to him. The adjustment shall be made by applying the overcollection against the employees' tax which attaches to such wages, and by deducting the remainder, if any, of the tax from such wages. In case the overcollection is greater in amount than the employees' tax attaching to such payment of wages, the balance of the overcollection shall be applied against the employees' tax attaching to consecutive payments of wages until the adjustment is completed. No adjustment shall be made under this paragraph after the expiration of four years after the overcollection was paid to the collector. A claim for credit or refund (in accordance with article 504) may be filed within such 4-year period for such part of any overcollection as cannot be adjusted within such period. After the employee leaves the employ of the employer who made the overcollection and is entitled to no further wages from such employer, adjustments under this article are not permissible. In such case the employer may pay the amount of the overcollection, or such part thereof as remains unadjusted under this article, to the employee, and file a claim for credit or refund in accordance with article 504. In lieu of paying such amount prior to filing a claim, the employer may obtain the employee's written consent to allowance of the claim.

ART. 503. Adjustment of employers' tax.—(a) *Underpayments.*—If no employers' tax or less than the correct amount of employers' tax is paid with respect to any payment of wages, the employer shall adjust the error by (1) reporting the additional amount due by reason of the underpayment as additional tax on his next return on Form SS-1 filed after the discovery of the error and (2) paying the amount thereof to the collector at the time such return is filed. However, no underpayment shall be adjusted under this article after receipt from the collector of formal notice and demand for payment thereof based upon an assessment approved by the Commissioner, but the amount thereof shall be paid to the collector pursuant to such notice and demand.

(b) *Overpayments.*—If an employer pays more than the correct amount of employers' tax, the employer shall adjust the error by applying the excess payment as a credit against the tax due upon his next return on Form SS-1 filed after the discovery of the error. No overpayment shall be adjusted under this article after the expiration of four years after the date the overpayment was made to the collector.

SECTION 806 OF THE ACT

If more * * * than the correct amount of tax imposed by section 801 or 804 is paid or deducted with respect to any wage payment and the overpayment * * * of tax cannot be adjusted under section 802 (b) or 805 the amount of the overpayment shall be refunded * * * in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

SECTION 1120 OF THE REVENUE ACT OF 1926, MADE APPLICABLE BY SECTION 807 (c) OF THE ACT

In the case of any overpayment or overcollection of any tax imposed by Title * * * VI, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

SECTION 3220 OF UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1111 OF THE REVENUE ACT OF 1926 AND SECTION 619 (b) OF THE REVENUE ACT OF 1928

Except as otherwise provided * * * the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; * * *

SECTION 3228 (A) OF UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1112 OF THE REVENUE ACT OF 1926 AND SECTION 619 (c) OF THE REVENUE ACT OF 1928 AND SECTION 1106 OF THE REVENUE ACT OF 1932

All claims for the refunding or crediting of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected must * * * be presented to the Commissioner of Internal Revenue within four years next after the payment of such tax, penalty, or sum. The amount of the refund * * * shall not exceed the portion of the tax, penalty, or sum paid during the four years immediately preceding the filing of the claim, or if no claim was filed, then during the four years immediately preceding the allowance of the refund.

SECTION 3477 OF UNITED STATES REVISED STATUTES

All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgments of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

ART. 504. Credit or refund of overpayments which are not adjustable.—(a) If more than the correct amount of tax (including interest or penalty, if any) is paid to the collector and if the overpayment can not be adjusted pursuant to article

502 or 503, the amount of the overpayment may be refunded to the person who paid the tax to the collector.

(b) If (1) more than the correct amount of employees' tax is collected by an employer from an employee and paid to the collector, and (2) the employee leaves the employ of such employer, and (3) the employee does not receive reimbursement by way of adjustment or otherwise from such employer and does not authorize the employer to file a claim and receive refund or credit, the amount of the overpayment may be refunded to the employee.

(c) If any person files a monthly tax return showing a greater amount of tax than is actually due, and pays such tax, he may file a claim for refund as provided for in this article, or he may take credit for such overpayment upon any monthly tax return subsequently filed. The return upon which the credit is taken must have securely attached thereto a statement under oath, setting forth in detail the grounds and facts relied upon in support of the credit.

(d) Every claim for refund under this article shall be made on the prescribed form in accordance with the instructions printed on such form and in accordance with these regulations. Copies of the prescribed form may be obtained from any collector. All grounds in detail and all facts alleged in support of the claim must be clearly set forth under oath. See article 406, requiring the account number of every employee and the identification number of every employer involved to be shown on all claims made under this article.

(e) In the case of any claim filed by an employer for refund or credit of employees' tax, the employer shall include in the claim a statement that he has repaid the tax to the employee or has secured the written consent of such employee to allowance of the refund or credit. In every such case the employer shall maintain as part of his records the written receipt of the employee acknowledging payment or the written consent of the employee, whichever is used in support of the claim.

(f) No refund or credit will be allowed after the expiration of four years after the payment to the collector of the tax, penalty, or interest, except upon one or more of the grounds set forth in a claim filed prior to the expiration of such 4-year period.

(g) A claim which does not comply with the requirements of this article will not be considered for any purpose as a claim for refund or credit.

(h) If a return is filed by an individual who thereafter dies and a refund claim is filed by a legal representative of the deceased, certified copies of the letters testamentary, letters of administration, or other similar evidence must be annexed to the claim, to show the authority of the executor, administrator, or other fiduciary by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany the claim, provided a statement is made in the claim showing that the return was filed by the fiduciary and that the latter is still acting. In such cases, if a refund or interest is to be paid, letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim. The affidavit may be made by the agent of the person assessed, but in such case a power of attorney must accompany the claim.

SECTION 806 OF THE ACT

If * * * less than the correct amount of tax imposed by section 801 or 804 is paid or deducted with respect to any wage payment and the * * * underpayment of tax cannot be adjusted under section 802 (b) or 805 * * * the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

ART. 505. Assessment of underpayments.—If any tax is not paid to the collector when due, the Commissioner may, as the circumstances warrant, assess the tax (whether or not the

underpayment is otherwise adjustable) or afford the employer opportunity to adjust the underpayment pursuant to article 502 or 503. Unpaid employers' tax or employees' tax may be assessed against the employer. Employees' tax not collected by the employer may also be assessed against the employee. The unpaid amount, together with interest and penalty, if any, will be collected, pursuant to section 3184 of the United States Revised Statutes and other applicable provisions of law, from the person against whom the assessment is made. If any amount of an assessment has been previously reported and paid to the collector as an adjustment or otherwise, the person against whom the assessment is made is privileged to file with the collector a claim for abatement of such amount, together with interest and penalty thereon if included in the assessment. If an employer pays employees' tax pursuant to an assessment against him without an adjustment having been made pursuant to article 502, reimbursement is a matter to be settled between the employer and the employee. See article 602, relating to interest, and article 603, relating to penalty for failure to pay an assessment after notice and demand. See also article 601, relative to jeopardy assessments.

CHAPTER VI

Miscellaneous Provisions

JEOPARDY ASSESSMENT

SECTION 1105 OF THE REVENUE ACT OF 1932, AS AMENDED BY SECTION 510 OF THE REVENUE ACT OF 1934

(a) If the Commissioner believes that the collection of any tax (other than income tax, estate tax, and gift tax) under any provision of the internal-revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest and penalties the assessment of which is provided for by law). Such tax, penalties, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the collector for the payment thereof. Upon failure or refusal to pay such tax, penalty, and interest, collection thereof by distraint shall be lawful without regard to the period prescribed in section 3187 of the Revised Statutes, as amended.

(b) The collection of the whole or any part of the amount of such assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount as to which the stay is desired, and with such sureties, as the collector deems necessary, conditioned upon the payment of the amount collection of which is stayed, at the time at which, but for this section, such amount would be due.

ART. 601. *Jeopardy assessment.*—Whenever, in the opinion of the collector, it becomes necessary to protect the interests of the Government by effecting an immediate return and collection of the tax, the case should be promptly reported to the Commissioner by telegram or letter. The communication should recite the full name and address of the person involved, the amount of taxes due, the period involved, and a statement as to the reason for the recommendation, which will enable the Commissioner to assess the tax, together with all penalties and interest due. Upon assessment such tax, penalty, and interest shall become immediately due and payable, whereupon the collector will issue immediately a notice and demand for payment of the tax, penalty, and interest.

The collection of the whole or any part of the amount of the jeopardy assessment may be stayed by filing with the collector a bond in such amount, not exceeding double the amount with respect to which the stay is desired and with such sureties as the collector deems necessary. Such bond shall be conditioned upon the payment of the amount, collection of which is stayed, at the time at which, but for the jeopardy assessment, such amount would be due. In lieu of surety or sureties the taxpayer may deposit with the collector bonds or notes of the United States, or bonds or notes fully guaranteed by the United States, having a par value not less than the amount of the bond required to be furnished, together with an agreement authorizing the collector in case of default to collect or sell such bonds or notes so deposited.

Upon refusal to pay, or failure to pay or give bond, the collector will proceed immediately to collect the tax, penalty, and interest by distraint without regard to the period pre-

scribed in section 3187 of the United States Revised Statutes, as amended.

INTEREST AND PENALTIES

SECTION 807 (A) OF THE ACT

* * * If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

SECTION 3184 OF UNITED STATES REVISED STATUTES

Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month.

SECTION 404 OF THE REVENUE ACT OF 1935

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

ART. 602. *Interest.*—If the tax is not paid to the collector when due and is not adjusted under article 502 or 503, interest accrues at the rate of 6 per cent per annum.

ART. 603. *Penalty for failure to pay an assessment after notice and demand.*—(a) In case the taxpayer fails to pay to the collector the entire amount of any assessment of tax, penalty, or interest within a period of 10 days after the date of issuance of the form for first notice and demand, based on such assessment, there accrues under section 3184 of the United States Revised Statutes (except as provided in subdivision (b) of this article) a penalty of 5 per cent of the amount of such assessment remaining unpaid at the expiration of such period.

(b) If, within 10 days after the date of issuance of the first notice and demand, a claim for abatement of any amount of the assessment is filed with the collector who issued the form, the 5 per cent penalty does not attach with respect to such amount. If the claim is rejected in whole or in part and the amount rejected is not paid, the collector shall issue notice and demand for such amount. If payment is not made within 10 days after the date the collector issues the notice and demand, the 5 per cent penalty attaches with respect to the amount rejected. The filing of the claim does not stay the running of interest.

SECTION 3176 OF THE UNITED STATES REVISED STATUTES, AS AMENDED BY SECTION 1103 OF THE REVENUE ACT OF 1926 AND SECTION 619 (D) OF THE REVENUE ACT OF 1928

* * * In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner shall add to the tax 50 per centum of its amount.

The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

SECTION 406 OF THE REVENUE ACT OF 1935

In the case of a failure to make and file an internal-revenue tax return required by law, within the time prescribed by law or prescribed by the Commissioner in pursuance of law, if the last date so prescribed for filing the return is after the date of the enactment of this Act, if a 25 per centum addition to the tax is prescribed by existing law, then there shall be added to the tax, in lieu of such 25 per centum: 5 per centum if the failure is for not more than 30 days, with an additional 5 per centum for each additional 30 days or fraction thereof during which failure continues, not to exceed 25 per centum in the aggregate.

ART. 604. *Penalties for delinquent or false returns.*—(a) *Delinquent returns.*—Unless the person required to file a return on Form SS-1 establishes to the satisfaction of the

Commissioner that a reasonable cause exists for the delinquency, the failure to file such return on or before the due date causes to accrue a penalty equal to the following percentage of the taxes required to be reported thereon:

- (1) 5 per cent, if the return is filed on or before the thirtieth day after the due date;
- (2) 10 per cent, if the return is filed after such thirtieth day and on or before the sixtieth day after the due date;
- (3) 15 per cent, if the return is filed after such sixtieth day and on or before the ninetieth day after the due date;
- (4) 20 per cent, if the return is filed after such ninetieth day and on or before the one hundred and twentieth day after the due date; or
- (5) 25 per cent, if the return is filed after such one hundred and twentieth day or if the return is never filed by the person required to file it.

In computing the period of delinquency all Sundays and holidays after the due date are counted.

Every person filing a return after the due date shall securely attach to the return his statement under oath setting out in detail the reason for his delinquency. The collector shall forward the statement to the Commissioner with the return. The Commissioner will determine whether a penalty has been incurred and if so make the assessment.

(b) *False returns.*—If a false or fraudulent return is willfully made, the penalty under section 3176 of the United States Revised Statutes, as amended, is 50 per cent of the total taxes due for the entire period involved including any tax previously paid.

ADDITIONAL PENALTIES

SECTION 1114 OF THE REVENUE ACT OF 1926, MADE APPLICABLE BY SECTION 807 (C) OF THE ACT

(a) Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

(b) Any person required under this Act to collect, account for, and pay over any tax imposed by this Act, who willfully fails to collect or truthfully account for and pay over such tax, and any person who willfully attempts in any manner to evade or defeat any tax imposed by this Act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(c) Any person who willfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, the internal-revenue laws, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both, together with the costs of prosecution.

(d) Any person who willfully fails to pay, collect, or truthfully account for and pay over, any tax imposed by Titles IV, V, VI, VII, VIII, and IX, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected. No penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(e) Any person in possession of property, or rights to property, subject to distraint, upon which a levy has been made, shall, upon demand by the collector or deputy collector making such levy, surrender such property or rights to such collector or deputy, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person who fails or refuses to so surrender any of such property or rights shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes (including penalties and interest) for the collection of which such levy has been made, together with costs and interest from the date of such levy.

(f) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SECTION 35 OF THE CRIMINAL CODE OF THE UNITED STATES, AS AMENDED

Whoever shall make or cause to be made or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, or any department thereof, or any corporation in which the United States of America is a stockholder, any claim upon or against the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, knowing such claim to be false, fictitious, or fraudulent; or whoever shall knowingly and willfully falsify or conceal or cover up by any trick, scheme, or device a material fact, or make or cause to be made any false or fraudulent statements or representations, or make or use or cause to be made or used any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry, in any matter within the jurisdiction of any department or agency of the United States or of any corporation in which the United States of America is a stockholder; * * * or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, or any corporation in which the United States of America is a stockholder, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; * * * shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. * * *

RETROACTIVITY OF REGULATIONS

SECTION 1108 (A) OF THE REVENUE ACT OF 1926, AS AMENDED BY SECTION 605 OF THE REVENUE ACT OF 1928 AND SECTION 506 OF THE REVENUE ACT OF 1934

The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

AUTHORITY FOR REGULATIONS

SECTION 808 OF THE ACT

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title.

In pursuance of section 808 of the Act and other provisions of the internal revenue laws, the foregoing regulations are hereby prescribed.

[SEAL]

CHAS. T. RUSSELL,

Acting Commissioner of Internal Revenue.

Approved, November 9, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

APPENDIX

[T. D. 4704]

IDENTIFICATION OF TAXPAYERS UNDER TITLE VIII OF THE SOCIAL SECURITY ACT.—ASSIGNMENT OF IDENTIFICATION NUMBERS TO EMPLOYERS AND ACCOUNT NUMBERS TO EMPLOYEES

To Collectors of Internal Revenue and Others Concerned:

PARAGRAPH A. Section 801 of the Social Security Act provides, in part:

In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

- (1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

PAR. B. Section 802 (a) of the Social Security Act provides:

The tax imposed by section 801 shall be collected by the employer of the taxpayer by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

PAR. C. Section 804 of the Social Security Act provides, in part:

In addition to other taxes, every employer shall pay an excise tax, with respect to having individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

PAR. D. Section 811 of the Social Security Act provides:

When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to \$3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

- (1) Agricultural labor;
- (2) Domestic service in a private home;
- (3) Casual labor not in the course of the employer's trade or business;
- (4) Service performed by an individual who has attained the age of sixty-five;
- (5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;
- (6) Service performed in the employ of the United States Government or of an instrumentality of the United States;
- (7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;
- (8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 11 of the Carriers Taxing Act, approved August 29, 1935 (49 Stat. 974), provides:

The term "employment", as defined in subsection (b) of section 811 of Title VIII of the Social Security Act, shall not include service performed in the employ of a carrier as defined in subdivision (a) of section 1 of this Act.

PAR. E. Section 1101 (a) of the Social Security Act provides, in part:

When used in this Act—

- (1) The term "State" * * * includes Alaska, Hawaii, and the District of Columbia.
- (2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.
- (3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.
- (4) The term "corporation" includes associations, joint-stock companies, and insurance companies.
- (6) The term "employee" includes an officer of a corporation.

PAR. F. Section 807 of the Social Security Act provides, in part:

(a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections.

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 807 of the Revenue Act of 1934, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to the taxes imposed by this title.

PAR. G. Section 1102 (a) of the Revenue Act of 1926 provides:

Every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

PAR. H. Section 1114 (a) of the Revenue Act of 1926 provides:

Any person required under this Act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this Act, who willfully fails to pay such tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than one year, or both, together with the costs of prosecution.

PAR. I. Section 808 of the Social Security Act provides:

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title.

Pursuant to the above-quoted provisions of law and other provisions of law, the following regulations are hereby prescribed:

ARTICLE I. *Definitions.*—As used in these regulations—

(a) The terms defined in paragraphs D and E, above, shall have the respective meanings therein assigned to them.

(b) *Act* means the Social Security Act (Public, No. 271, Seventy-fourth Congress; 49 Stat. 620).

(c) *Employer* means a person employing one or more employees.

(d) *Employee* means an employee performing services in employment. (See paragraphs D and E, above.)

(e) *Social Security Board* means the Board established pursuant to Title VII of the Act.

ART. 2. *Taxes under Title VIII of the Act.*—Section 801 of the Act imposes an income tax on every employee, referred to herein as the employees' tax. Section 802 (a) of the Act requires the employer to collect the employees' tax by deducting the amount thereof from the wages of the employee when paid. Section 804 of the Act imposes an excise tax on every employer, referred to herein as the employers' tax. The employees' tax and the employers' tax become effective January 1, 1937, and are administered by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury. These taxes will be collected by means of monthly tax returns to be filed by employers. Information returns will also be required of every employer, reporting the taxable wages which are paid to each of his employees. Employees are not required to make returns under Title VIII of the Act. Regulations 91, relating to the employees' tax and the employers' tax, set out the requirements with respect to tax returns, information returns, records, and payment of taxes under Title VIII, and contain provisions explaining in detail the application of such title. However, the regulations contained in this Treasury Decision set forth additional duties of employers and employees under Title VIII with respect to obtaining the assignment of numbers to be used by them for identification purposes in connection with the employees' tax and the employers' tax.

ART. 3. *Assignment of identification numbers and account numbers in general.*—An identifying number will be assigned to each employer and to each employee under Title VIII of the Social Security Act. The procedure for obtaining an assignment of such number is set forth in these regulations. The number to be assigned to an employer is hereby designated as an "identification number." The number to be assigned to an employee is hereby designated as an "account number." The identification number assigned to the employer and also the account number assigned to each of his employees shall be shown by the employer in his records, returns, and claims to the extent required by articles 406 and 412 of Regulations 91. The Postmaster General and the Social Security Board (and such of their officers and em-

employees as they may designate) will receive applications for identification numbers and applications for account numbers and will assign such numbers.

ART. 4. Assignment of identification numbers to employers.—(a) *Persons who are employers on November 16, 1936.*—Every person who is an employer on November 16, 1936, shall file an employer's application for identification number on Form SS-4. The application shall be filed, in accordance with instructions on the form, with the postmaster from whose post office the business mail of the employer's establishment is delivered. If the employer has more than one establishment on November 16, 1936, the employer shall file a separate application for each establishment. The employer shall file each application under this paragraph on or before November 21, 1936. The term "establishment" as used in this article means each separate place of employment. For example: If X Company has two retail stores and a manufacturing plant in New York City, and a general office in Chicago, it has four establishments, that is, each of the two retail stores, the manufacturing plant, and the general office is a separate establishment.

(b) *Persons who become employers after November 16, 1936.*—Every person not an employer on November 16, 1936, who becomes an employer after such date, shall file an employer's application for identification number on Form SS-4. Each application under this paragraph shall be filed with the Social Security Board at Washington, D. C., or at any field office of the Board located in the area in which the headquarters of the employer is situated. The employer shall insert on line 3 of the application the date on which he became an employer, and shall file the application on or before the thirtieth day after such date.

(c) *General provisions relating to applications for identification numbers.*—Copies of the prescribed form, Form SS-4, may be obtained prior to January 1, 1937, at any post office. Between January 1, 1937, and March 31, 1937, both dates inclusive, copies of such form may be obtained at the Social Security Board, Washington, D. C., or at any field office of the Social Security Board, or at any post office. After March 31, 1937, copies of the form will be available at the Social Security Board, Washington, D. C., or at field offices of the Social Security Board. To the extent practicable in connection with applications to be filed on or before November 21, 1936, postmasters will deliver copies of the form to employers. However, an employer will not be excused from making an application because no application form has been furnished to him. Employers should request copies of the form in ample time to have their applications prepared and filed on or before the due date. Each employer shall carefully prepare his application so as to set forth fully and clearly the data therein called for. Each application shall be signed by the employer. If, however, the employer is not an individual, the application shall be signed by a member or responsible official of the employer having knowledge of the employer's affairs. Identification numbers will be assigned to employers in due course upon the basis of information reported on applications required under this article.

ART. 5. Assignment of account numbers to employees.—(a) *Individuals who are employees on November 24, 1936.*—Every individual who is an employee on November 24, 1936, shall file an application for an account number on Form SS-5. The application shall be filed, in accordance with instructions on the form, with any postmaster. The employee shall file the application on or before December 5, 1936.

(b) *Individuals who become employees after November 24, 1936.*—Every individual not an employee on November 24, 1936, who becomes an employee after such date, shall file an application for an account number on Form SS-5. The employee shall insert in the blank space at the end of line 13 of the application the date on which he became an employee, and shall file the application on or before the thirtieth day after such date. Each application under this paragraph shall be filed as follows:

(1) If filed before January 1, 1937, the application shall be filed with any postmaster.

(2) If filed during the period January 1, 1937, to March 31, 1937, both dates inclusive, the application shall be filed with any postmaster, or at any field office of the Social Security Board located in the area in which the employee works.

(3) If filed after March 31, 1937, the application shall be filed with the Social Security Board at Washington, D. C., or at any field office of the Social Security Board located in the area in which the employee works.

(c) *Circumstances under which employers are required to fill out and file applications for employees.*—If an individual who is an employee on the last day of the period covered by any information return (see articles 402 to 405, inclusive, of Regulations 91) has failed to file an application for an account number on Form SS-5, the employer shall file an application for the employee on or before the tenth day after such last day. If an employee has failed to file an application on Form SS-5 prior to the date he attains age 65, or the date he dies before attaining age 65, or the date he leaves the service of the employer, the employer shall file an application for the individual on or before the tenth day after such date. However, the employer shall not file an application for any employee who is not in his employ after December 31, 1936. An employee is not relieved from his duty to file an application on Form SS-5 by reason of his employer having filed an application for him. Every application filed by an employer under this paragraph shall be filed on Form SS-5. Each such application shall be filled out on the information and belief of the employer, setting out as fully and clearly as practicable the data therein called for. The employer shall insert on the form the reason why he filed the application, such as: "Employee still in my employ but failed to file application on or before _____, the last day covered by information return"; or "Employee died on _____, before attaining age 65, without filing application"; or "Employee attained age 65 on _____ without filing application"; or "Employee left my service on _____ without filing application." The employer shall sign each such application on the line provided on the form for the employee's signature, inserting after the signature the word "Employer." Each application under this paragraph shall be filed as follows:

(date)
"Employee died on _____, before attaining age 65, without filing application"; or "Employee attained age 65 on _____ without filing application"; or "Employee left my service on _____ without filing application." The employer shall sign each such application on the line provided on the form for the employee's signature, inserting after the signature the word "Employer." Each application under this paragraph shall be filed as follows:

(date)
"Employee left my service on _____ without filing application." The employer shall sign each such application on the line provided on the form for the employee's signature, inserting after the signature the word "Employer." Each application under this paragraph shall be filed as follows:

(date)
"Employee left my service on _____ without filing application." The employer shall sign each such application on the line provided on the form for the employee's signature, inserting after the signature the word "Employer." Each application under this paragraph shall be filed as follows:

(1) If filed before April 1, 1937, the application shall be filed with any postmaster, or at any field office of the Social Security Board located in the area in which the employee works.

(2) If filed after March 31, 1937, the application shall be filed with the Social Security Board at Washington, D. C., or at any field office of the Social Security Board located in the area in which the employee works.

(d) *General provisions relating to applications for employee account numbers.*—Copies of the prescribed form, Form SS-5, may be obtained prior to January 1, 1937, at any post office. Between January 1, 1937, and March 31, 1937, both dates inclusive, copies of such form may be obtained at the Social Security Board, Washington, D. C., or at any field office of the Social Security Board, or at any post office. After March 31, 1937, copies of the form will be available at the Social Security Board, Washington, D. C., or at field offices of the Social Security Board. To the extent practicable in connection with applications to be filed on or before December 5, 1936, the forms will be delivered to employers for distribution to employees. However, no employee or employer will be excused from making an application because an application form has not been furnished to him. Employees and employers should request copies of the form in ample time to have the applications prepared and filed on or before the due date. Each applica-

tion shall be carefully prepared so as to set forth fully and clearly the data therein called for. Account numbers will be assigned to employees in due course upon the basis of information reported on applications required under this article.

ART. 6. *Employees required to advise employers of account numbers.*—Every employee shall advise every employer for whom he performs services what his account number is. Care must be exercised that the employer is advised of the correct number. Such advice shall be furnished to the employer as soon as the employee is notified of the assignment of an account number and thereafter as soon as the employee enters the employ of any employer. Any employee may have his account number changed at any time by applying to the Social Security Board and showing good reasons for a change. With that exception, only one account number will be assigned to an employee. The number so assigned shall be used by him even though he enters the employ of other employers.

[SEAL.]

CHAS. T. RUSSELL,

Acting Commissioner of Internal Revenue.

Approved, November 5, 1936.

WAYNE C. TAYLOR.

Acting Secretary of the Treasury.

[F. R. Doc. 3319—Filed, November 9, 1936; 4:12 p. m.]

[T. D. 4706]

TAX ON ADMISSIONS ¹

To Collectors of Internal Revenue and Others Concerned:

The second paragraph of Article 44 of Regulations 43 is amended to read:

Every individual, corporation, partnership, or association required by the provisions of the Act to pay any tax on charges in excess of the established price must keep or cause to be kept a daily record which shows all sales of tickets by classes (in each of which all the tickets are identical) in respect to (1) the place to which admission is granted by the ticket, (2) the established price (exclusive of admission tax) of the admission granted by the ticket, and (3) the actual price (exclusive of any amount representing an admission tax) at which that sale of the ticket is made. This daily record must show in the case of each such class (a) all figures and other information necessary to determine the amount of tax due for that day, and (b) the amount due as taxes on charges in excess of the established price, for that day. Whenever in the course of the business a report is prepared daily or at some other regular interval or at any time by a treasurer or manager for the benefit of the proprietor, or by the proprietor, treasurer, or manager for the benefit of some other interested party, a sworn copy of such report must be attached to and made part of such daily record. All daily records, including the foregoing sworn copies of reports, must be kept on file at the place of business, or at some other convenient location, for a period of at least four years from the date the tax became due, in such a manner as to be readily accessible to internal revenue officers. In addition to the foregoing records, every individual, corporation, partnership, or association selling for resale tickets of admission to brokers, hotels, clubs, newstands, or others (required to be registered on Form 752 as outlined in Article 46), must keep or cause to be kept a daily account record substantially in the form outlined below:

DAILY RECORD OF EXCESS CHARGES ON TICKETS OF ADMISSION SOLD
FOR RESALE

Name -----
 (Broker, hotel, club, etc.)
 Address -----
 (Street, Post Office, and State)
 For calendar month ended ----- 193-----
 In account with -----
 (Customer's name)

 (Address)

¹ Tax on Admissions—Section 500 (a) (i) of the Revenue Act of 1926, as amended by section 411 (a) of the Revenue Act of 1928, section 711 (a) of the Revenue Act of 1932, section 212 of the National Industrial Recovery Act, and further amended by Public Resolution No. 36, 74th Congress, approved June 28, 1935.

Articles 44 and 45 (as amended by T. D. 4369, approved June 23, 1933, and T. D. 4379, approved August 9, 1933) of Regulations 43, approved June 14, 1932, amended.

[illegible]

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report. By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 3321—Filed, November 10, 1936; 9:28 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of November A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2877]

IN THE MATTER OF HEALTH GUARD, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered that John L. Hornor, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered that the taking of testimony in this proceeding begin on Tuesday, November 17, 1936, at ten o'clock in the forenoon of that day (eastern standard time), in court room number 4, Federal Building, Pittsburgh, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report. By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 3320—Filed, November 10, 1936; 9:27 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 6th day of November A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2889]

IN THE MATTER OF MUTUAL BRIEF CASE COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered that John L. Hornor, an examiner of this Commission be, and he hereby is, designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered that the taking of testimony in this proceeding begin on Tuesday, November 24, 1936, at ten o'clock in the forenoon of that day, at room 823, 45 Broadway, New York, N. Y. (eastern standard time).

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to

take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report. By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 3322—Filed, November 10, 1936; 9:28 a. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 50954]

APPLICATION OF THOMAS CARL DAVIDSON FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of Thomas Carl Davidson, Individual, Doing Business as Davidson Truck Line, of Wellsville, Mo., for a Certificate of Public Convenience and Necessity (Form BMC 8, New Operation), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, From and Between Points Located in the States of Missouri, Illinois, Arkansas, Oklahoma, Kansas, Nebraska, and Iowa Over Irregular Routes

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing on the 4th day of December A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, *Secretary*.

[F. R. Doc. 3325—Filed, November 10, 1936; 11:52 a. m.]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 35491]

APPLICATION OF E. H. HOFFMAN FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of E. H. Hoffman, Individual, Doing Business as St. Louis-Chicago Cartage Company, of 309 Geyer Avenue, St. Louis, Mo., for a Certificate of Public Convenience and Necessity (Form BMC A1), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, With

Exceptions, in Interstate Commerce, in the States of Illinois, Indiana, Iowa, and Missouri, Over the Following Routes

- Route No. 1.—Between St. Louis, Mo., and Chicago, Ill.
- Route No. 2.—Between Chicago and Quincy, Ill.
- Route No. 3.—Between St. Louis, Mo., and Terre Haute, Ind.
- Route No. 4.—Between Chicago and Cairo, Ill.
- Route No. 5.—Between Chicago and Mt. Carmel, Ill.
- Route No. 6.—Between St. Louis, Mo., and Mt. Carmel, Ill.
- Route No. 7.—Between St. Louis, Mo., and Vincennes, Ind.
- Route No. 8.—Between St. Louis, Mo., and Harrisburg, Ill.
- Route No. 9.—Between St. Louis, Mo., and Davenport, Iowa.
- Route No. 10.—Between Chicago, Ill., and Davenport, Iowa.
- Route No. 11.—Between Rockford and Cairo, Ill.
- Route No. 12.—Between Chicago and Rockford, Ill.
- Route No. 13.—Between Peoria, Ill., and Burlington, Iowa.
- Route No. 14.—Between Chicago, Ill., and Burlington, Iowa.
- Route No. 15.—Between Chicago, Ill., and Wisconsin State Line.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing on the 1st day of December A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[P. R. Doc. 3328—Filed, November 10, 1936; 11:53 a. m.]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 67588]

APPLICATION OF E. H. HOFFMAN FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of E. H. Hoffman, Individual, Doing Business as St. Louis-Chicago Cartage Co., of 309 Geyer Avenue, St. Louis, Mo., for a Permit (Form BMC A1), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, with Exceptions, in Interstate Commerce, in the States of Missouri, Illinois, Iowa, and Indiana, Over the Following Routes

- Route No. 1.—Between St. Louis, Mo., and Chicago, Ill.
- Route No. 2.—Between Chicago and Quincy, Ill.
- Route No. 3.—Between St. Louis, Mo., and Terre Haute, Ind.
- Route No. 4.—Between Chicago and Cairo, Ill.
- Route No. 5.—Between Chicago and Mt. Carmel, Ill.
- Route No. 6.—Between St. Louis, Mo., and Mt. Carmel, Ill.

- Route No. 7.—Between St. Louis, Mo., and Vincennes, Ind.
- Route No. 8.—Between St. Louis, Mo., and Harrisburg, Ill.
- Route No. 9.—Between St. Louis, Mo., and Davenport, Iowa.
- Route No. 10.—Between Chicago, Ill., and Davenport, Iowa.
- Route No. 11.—Between Rockford and Cairo, Ill.
- Route No. 12.—Between Chicago and Rockford, Ill.
- Route No. 13.—Between Peoria, Ill., and Burlington, Iowa.
- Route No. 14.—Between Chicago, Ill., and Burlington, Iowa.
- Route No. 15.—Between Chicago, Ill., and Wisconsin State Line.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing on the 1st day of December A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[P. R. Doc. 3329—Filed, November 10, 1936; 11:53 a. m.]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 33415]

APPLICATION OF E. H. HOFFMAN LINES, INC., FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of E. H. Hoffman Lines, Inc., of 301 Geyer Avenue, St. Louis, Mo., for a Certificate of Public Convenience and Necessity (Form BMC A1), Authorizing Operation as a Common Carrier by Motor Vehicle, in the Transportation of Commodities Generally, With Exceptions, in Interstate Commerce, in the States of Missouri, Illinois, Indiana, and Iowa, Over the Following Routes

- Route No. 1.—Between St. Louis, Mo., and Chicago, Ill.
- Route No. 2.—Between Chicago and Quincy, Ill.
- Route No. 3.—Between St. Louis, Mo., and Terre Haute, Ind.
- Route No. 4.—Between Chicago and Cairo, Ill.
- Route No. 5.—Between Chicago and Mt. Carmel, Ill.
- Route No. 6.—Between St. Louis, Mo., and Mt. Carmel, Ill.
- Route No. 7.—Between St. Louis, Mo., and Vincennes, Ind.
- Route No. 8.—Between St. Louis, Mo., and Harrisburg, Ill.
- Route No. 9.—Between St. Louis, Mo., and Davenport, Iowa.
- Route No. 10.—Between Chicago, Ill., and Davenport, Iowa.
- Route No. 11.—Between Rockford and Cairo, Ill.
- Route No. 12.—Between Chicago and Rockford, Ill.
- Route No. 13.—Between Peoria, Ill., and Burlington, Iowa.
- Route No. 14.—Between Chicago, Ill., and Burlington, Iowa.
- Route No. 15.—Between Chicago, Ill., and Wisconsin State Line.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing on the 1st day of December A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 3326—Filed, November 10, 1936; 11:52 a. m.]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 67587]

APPLICATION OF E. H. HOFFMAN LINES, INC., FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of E. H. Hoffman Lines, Inc., of 301 Geyer Avenue, St. Louis, Mo., for a Permit (Form BMC A1), Authorizing Operation as a Contract Carrier by Motor Vehicle, in the Transportation of Commodities Generally, With Exceptions, in Interstate Commerce, in the States of Missouri, Illinois, Indiana, and Iowa, Over the Following Routes

- Route No. 1.—Between St. Louis, Mo., and Chicago, Ill.
- Route No. 2.—Between Chicago and Quincy, Ill.
- Route No. 3.—Between St. Louis, Mo., and Terre Haute, Ind.
- Route No. 4.—Between Chicago and Cairo, Ill.
- Route No. 5.—Between Chicago and Mt. Carmel, Ill.
- Route No. 6.—Between St. Louis, Mo., and Mt. Carmel, Ill.
- Route No. 7.—Between St. Louis, Mo., and Vincennes, Ind.
- Route No. 8.—Between St. Louis, Mo., and Harrisburg, Ill.
- Route No. 9.—Between St. Louis, Mo., and Davenport, Iowa.
- Route No. 10.—Between Chicago, Ill., and Davenport, Iowa.
- Route No. 11.—Between Rockford and Cairo, Ill.
- Route No. 12.—Between Chicago and Rockford, Ill.
- Route No. 13.—Between Peoria, Ill., and Burlington, Iowa.
- Route No. 14.—Between Chicago, Ill., and Burlington, Iowa.
- Route No. 15.—Between Chicago, Ill., and Wisconsin State Line.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing

on the 1st day of December A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 3327—Filed, November 10, 1936; 11:52 a. m.]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 18730]

APPLICATION OF B. F. MOORE FOR AUTHORITY TO OPERATE AS A COMMON OR CONTRACT CARRIER

In the Matter of the Application of B. F. Moore, Individual, of Blue Mound, Ill., for a Certificate of Public Convenience and Necessity or Permit (Form BMC A), Authorizing Operation as a Common or Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the States of Missouri, Illinois, Indiana, and Iowa, Over the Following Routes

Route No. 1.—Between St. Louis, Mo., and Chicago, Ill.

Route No. 2.—Between Chicago and Quincy, Ill.

Route No. 3.—Between St. Louis, Mo., and Terre Haute, Ind.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing on the 1st day of December, A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 3324—Filed, November 10, 1936; 11:51 a. m.]

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of October A. D. 1936.

[No. MC 13853]

APPLICATION OF N. E. ROSENBLUM FOR AUTHORITY TO OPERATE
AS A COMMON OR CONTRACT CARRIER

In the Matter of the Application of N. E. Rosenblum, Individual, Doing Business as N. E. Rosenblum Truck Lines, of 1125 South Broadway, St. Louis, Mo., for a Certificate of Public Convenience and Necessity or Permit (Form BMC A), Authorizing Operation as a Common or Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, in the States of Illinois, Missouri, Indiana, Kentucky, Iowa, and Kansas, Over the Following Routes

- Route No. 1.—Between St. Louis, Mo., and Chicago, Ill., via U. S. Highway 66.
 Route No. 2.—Between St. Louis, Mo., and Chicago, Ill., via Decatur and Bloomington, Ill.
 Route No. 3.—Between St. Louis, Mo., and Chicago, Ill., via Vandalia and Bloomington, Ill.
 Route No. 4.—Between St. Louis, Mo., and Chicago, Ill., via Effingham, Ill.
 Route No. 5.—Between St. Louis, Mo., and Chicago, Ill., via Marshall, Ill.
 Route No. 6.—Between St. Louis, Mo., and Chicago, Ill., via Vandalia and La Salle, Ill.
 Route No. 7.—Between St. Louis, Mo., and Chicago, Ill., via Jacksonville and Springfield, Ill.
 Route No. 8.—Between St. Louis, Mo., and Chicago, Ill., via Springfield and Peoria, Ill.
 Route No. 9.—Between St. Louis, Mo., and Chicago, Ill., via Joliet and Aurora, Ill.
 Route No. 10.—Between St. Louis, Mo., and Chicago, Ill., via Lincoln, Peoria, and Chenoa, Ill.
 Route No. 11.—Between St. Louis, Mo., and Chicago, Ill., via Bloomington, Morton, Peoria, and Chenoa, Ill.
 Route No. 12.—Between St. Louis, Mo., and Chicago, Ill., via Vandalia, Decatur, and Morton, Ill.
 Route No. 13.—Between St. Louis, Mo., and Chicago, Ill., via Joliet, Aurora, and Elgin, Ill.
 Route No. 14.—Between St. Louis, Mo., and Waukegan, Ill.
 Route No. 15.—Between St. Louis, Mo., and Chicago, Ill., via Onarga and Kankakee, Ill.
 Route No. 16.—Between St. Louis, Mo., and Cincinnati, Ohio, via Richmond, Ind., and Dayton, Ohio.
 Route No. 17.—Between St. Louis, Mo., and Cincinnati, Ohio, over U. S. Highway 50.
 Route No. 18.—Between St. Louis, Mo., and Cincinnati, Ohio, via Louisville, Ky., and Seymour, Ind.
 Route No. 19.—Between St. Louis, Mo., and Louisville, Ky.
 Route No. 20.—Between St. Louis, Mo., and Des Moines, Iowa.
 Route No. 21.—Between St. Louis, Mo., and Kansas City, Mo.
 Route No. 22.—Between St. Louis and Mexico, Mo., via Kingdom City, Mo.
 Route No. 23.—Between St. Louis and Mexico, Mo., over U. S. Highways 40 and 54, and Mo. Highway 19.
 Route No. 24.—Between St. Louis, Mo., and Oklahoma City, Okla.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or offices of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner F. McM. Woodrow for hearing on the 4th day of December A. D. 1936, at 10 o'clock a. m. (standard time), at the Coronado Hotel, St. Louis, Mo., and for recommendation of an appropriate order thereon accompanied by the reasons therefor;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 3323—Filed, November 10, 1936; 11:51 a. m.]

[Fourth Section Application No. 16599]

TRANSIT SHIPMENTS IN THE SOUTH

NOVEMBER 10, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: J. E. Tilford, Agent.

Commodities involved: Transit shipments.

From, to, and between: Points in the South.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 3330—Filed, November 10, 1936; 11:53 a. m.]

[Fourth Section Application No. 16600]

MATTRESS FELT FROM TEXAS

NOVEMBER 10, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act,

Filed by: F. A. Leland, Agent.

Commodities involved: Mattress felt or pads, any quantity, in boxes or paper lined crates.

From: Points in Texas.

To: Interstate destinations.

Grounds for relief: Analogous commodity.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 3331—Filed, November 10, 1936; 11:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

SECURITIES EXCHANGE ACT OF 1934

ADOPTION OF RULE KAY—CURRENT REPORTS

The Securities and Exchange Commission, deeming it necessary for the execution of the functions vested in it and necessary and appropriate for the proper protection of investors and to insure fair dealing in securities registered on national securities exchanges so to do, pursuant to authority conferred upon it by the Securities Exchange Act of 1934 as

amended, particularly Sections 13 and 23 (a) thereof, hereby adopts the following rule:

RULE KA7. Current Reports.—(a) A current report on the appropriate form shall be filed by the issuer of a security registered on a national securities exchange (hereinafter called "the registrant") in case any of the events enumerated below occurred or shall occur at any time after the close of the first fiscal year or other one-year period for which an annual report is required to be filed by the registrant, or if the registrant had no security registered on a national securities exchange on December 31, 1935, at any time after the registration of any of its securities first became or shall become effective:

(1) A material amendment of any exhibit previously filed by the registrant pursuant to Section 12 or 13 of the Act;

(2) The execution of any voting trust agreement, contract, or indenture of a character required to be filed as an exhibit in the form of annual report appropriate for the registrant;

(3) A substantial restatement of the capital shares account of the registrant;

(4) The issuance of any new class of securities, or an aggregate increase or decrease of more than five percent in the amount of any class of securities of the registrant outstanding, as last previously reported, unless resulting from an ordinary sinking fund operation; provided that (i) no report need be made with respect to notes, drafts, bills of exchange, or banker's acceptances having a maturity at the time of issuance of not exceeding one year, and (ii) for the purposes of this paragraph (4), securities held by the registrant shall not be deemed "outstanding";

(5) Granting or extension of any option to purchase equity securities of the registrant from the registrant, provided that a current report need be made only when one or more options calling for an aggregate principal amount of \$50,000 or more of a single issue of convertible evidences of indebtedness, or an aggregate of 1,000 or more shares or other units of any other single class of equity securities, have been granted or extended and have not been previously reported;

(6) The exercise, in whole or in part, of any option to purchase equity securities of the registrant from the registrant, provided that a current report need be made only when a person or persons have acquired an aggregate principal amount of \$50,000 or more of a single issue of convertible evidences of indebtedness, or an aggregate of 1,000 or more shares or other units of any other single class of equity securities, through one or more exercises which have not been previously reported;

(7) A person's becoming, or ceasing to be, a parent or subsidiary of the registrant, provided that no report need be made as to any subsidiary the name of which would not be required to be furnished in the form of annual report appropriate for the registrant;

(8) A substantial revaluation of the assets of the registrant;

(9) A substantial withdrawal or substitution with respect to property securing any issue of registered securities;

provided, however, that no report need be filed as to any event concerning which information substantially similar to that required by Form 8-K shall have been previously reported by the registrant.

(b) The current report shall be filed not more than ten days after the close of the calendar month during which occurred the event obligating the registrant to file the current report, or if the event occurred prior to December 1, 1936, not later than January 10, 1937.

(c) As used in this Rule, the term "previously reported" means previously reported in an application for registration or a report filed pursuant to Section 12 or 13 of the Act; the term "option" does not include options evidenced by an issue of securities, such as an issue of warrants or rights; the term "unit" means that unit of a class of securities representing the smallest interest in the registrant or in property of the registrant, or having the smallest par or face value or denom-

ination which is separately transferable by a holder thereof. Unless the context otherwise requires all other terms used in this Rule have the same meanings as in the Act, in the form appropriate for an annual report of the registrant, and in the instruction book accompanying such form.

(d) The foregoing provisions of this Rule shall not be applicable to issuers of securities which are registered pursuant to an application on Form 18, 19, 20, or 21.

The foregoing action of the Commission shall be effective immediately upon publication.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3347—Filed, November 10, 1936; 12:58 p. m.]

SECURITIES EXCHANGE ACT OF 1934

RULE ADOPTING FORM 8-K¹

The Securities and Exchange Commission, finding—

(1) that the requirements of Form 8-K for current reports are necessary and appropriate for the proper protection of investors and to insure fair dealing in securities registered on national securities exchanges; and

(2) that the information and documents called for by such form are required to keep reasonably current the information and documents filed pursuant to Section 12 of the Securities Exchange Act of 1934.

pursuant to authority conferred upon it by the Securities Exchange Act of 1934, particularly Sections 13 and 23 (a) thereof, hereby adopts Form 8-K for current reports.

The foregoing action of the Commission shall be effective immediately upon publication.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3348—Filed, November 10, 1936; 12:58 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of November 1936.

[File No. 1-1433]

IN THE MATTER OF GENERAL PAINT CORPORATION CLASS A STOCK, NO PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (D) OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The General Paint Corporation having made application to the Commission pursuant to Rule JD2 under the Securities Exchange Act of 1934, as amended, for permission to withdraw from listing and registration its Class A Stock, No Par Value, on the San Francisco Stock Exchange and Los Angeles Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, that the matter be set down for hearing at 10 o'clock A. M. on Friday, November 27, 1936, at the Regional Office of the Securities and Exchange Commission, 625 Market Street, San Francisco, California, and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, that Howard A. Judy, an officer of the Commission, be, and he hereby is, designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records

¹ Form 8-K has been filed with the Division of the Federal Register, The National Archives. Copies are obtainable upon application to the Securities and Exchange Commission.

deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.
By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 3335—Filed, November 10, 1936; 12:55 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of November 1936.

[File No. 1-15]

IN THE MATTER OF HAMILTON MANUFACTURING CO., CLASS A
PREFERENTIAL PARTICIPATING STOCK, \$10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (D) OF THE
SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The Hamilton Manufacturing Company having made application to the Commission pursuant to Rule JD2 under the Securities Exchange Act of 1934, as amended, for permission to withdraw from listing and registration its Class A Preferential Participation Stock, \$10 Par Value, on the Board of Trade of the City of Chicago; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, that the matter be set down for hearing at 10 o'clock a. m. on Wednesday, November 25, 1936, at the Regional Office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, that Henry Fitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 3346—Filed, November 10, 1936; 12:58 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of November 1936.

[File No. 1-1335]

IN THE MATTER OF ST. LOUIS CAR COMPANY FIRST MORTGAGE
6% SINKING FUND GOLD BONDS; 7% CUMULATIVE PREFERRED
STOCK, \$100 PAR VALUE; COMMON STOCK, \$10 PAR VALUE

ORDER DIRECTING HEARING UNDER SECTION 12 (D) OF THE
SECURITIES EXCHANGE ACT OF 1934, AS AMENDED

The St. Louis Car Company having made application to the Commission pursuant to Rule JD2 under the Securities Exchange Act of 1934, as amended, for permission to withdraw from listing and registration its First Mortgage 6% Sinking Fund Gold Bonds, 7% Cumulative Preferred Stock, \$100 Par Value, and Common Stock, \$10 Par Value, on the St. Louis Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons should be given an opportunity to be heard and that general notice should be given;

It is ordered, that the matter be set down for hearing at 10 o'clock a. m. on Monday, November 23, 1936, at the Regional Office of the Securities and Exchange Commission, 105 West Adams Street, Chicago, Illinois, and continue thereafter at such times and places as the Commission or its officer herein designated may determine, and that general notice thereof be given; and

It is further ordered, that Henry Pitts, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 3337—Filed, November 10, 1936; 12:56 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 30th day of October A. D. 1936.

[File No. 2-2557]

IN THE MATTER OF REGISTRATION STATEMENT OF MAJOR METALS
CORPORATION

ORDER FIXING TIME AND PLACE OF HEARING UNDER SECTION 8 (D)
OF THE SECURITIES ACT OF 1933, AS AMENDED, AND DESIGNATING
OFFICER TO TAKE EVIDENCE

It appearing to the Commission that there are reasonable grounds for believing that the registration statement filed by Major Metals Corporation under the Securities Act of 1933, as amended, includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading,

It is ordered, that a hearing be held, pursuant to the provisions of Section 8 (d) of said Act as amended, such hearing to be convened on November 10, 1936, at 10 o'clock in the forenoon, in Room 1101, Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C., and to continue thereafter at such times and places as the officer hereinafter designated may determine; and

It is further ordered, that Charles S. Moore, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of testimony in this matter, the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 3343—Filed, November 10, 1936; 12:57 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST
IN THE STANOLIND-GASSOWAY FARM, FILED ON OCTOBER 14,
1936, BY INDUSTRIAL INVESTMENT CORP., RESPONDENT

ORDER FOR HEARING (UNDER RULE 340 (B)) AND ORDER
DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the

offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

1. In respect of the information given under Items 18 (a) (v) and 18 (a) (vi) of Division II;

It is ordered, pursuant to Rule 340 (b) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether an order of suspension shall be entered; and

It is further ordered, that Charles S. Moore, an officer of the Commission be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 23rd day of November 1936 at 10:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3341—Filed, November 10, 1936; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 7th day of November A. D. 1936.

[File No. 2-2103]

IN THE MATTER OF HESS OIL COMPANY

ORDER CONSENTING TO FILING OF AMENDMENTS AND DECLARING REGISTRATION STATEMENT AMENDED IN ACCORDANCE WITH REFUSAL ORDER

This matter coming on to be heard by the Commission upon the registration statement of Hess Oil Company of Kansas City, Mo., originally filed April 15, 1936, and upon the amendments of said registration statement of July 29 and October 12, 1936, and the Commission being now fully advised in the premises,

It is declared, that the amendments filed July 29 and October 12, 1936, amend the statement in accordance with the order issued May 2, 1936, refusing to permit the registration statement to become effective, and

It is ordered, that the Commission hereby give its consent to the filing of such amendments as a part of said registration statement.

Said Registrant is hereby notified that the records of the Commission show November 7, 1936, as the effective date of said Registration Statement.

Attention is directed to Rules 800 (b) and 970 of the General Rules and Regulations, relating, respectively, to the requirements for the filing of twenty copies of the actual prospectus used and statement of price at which securities were actually offered.

Attention shall be directed to the provisions of Section 23, Securities Act of 1933, which follow: "Neither the fact that the registration statement for a security has been filed or is

in effect nor the fact that a stop order is not in effect with respect thereto shall be deemed a finding by the Commission that the registration statement is true and accurate on its face or that it does not contain an untrue statement of fact or omit to state a material fact, or be held to mean that the Commission has in any way passed upon the merits of, or given approval to, such security. It shall be unlawful to make, or cause to be made, to any prospective purchaser any representation contrary to the foregoing provisions of this section."

By direction of the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3336—Filed, November 10, 1936; 12:55 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE SHELL-MYERS FARM, FILED ON SEPTEMBER 21, 1936, BY ANDREW J. BARRETT, RESPONDENT

ORDER FOR CONTINUANCE

The Securities and Exchange Commission, having been requested by its counsel for a continuance of the hearing in the above entitled matter, which was last set to be heard at 10:00 o'clock in the forenoon on the 7th day of November 1936, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and it appearing proper to grant the request;

It is ordered, pursuant to Rule VI of the Commission's Rules of Practice under the Securities Act of 1933, as amended, that the said hearing be continued to 10:00 o'clock in the forenoon on the 7th day of December 1936, at the same place and before the same trial examiner.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3345—Filed, November 10, 1936; 12:57 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A WORKING INTEREST IN THE SMITH-FLEET-BELL-BEAVER PETROLEUM FARMS, FILED ON OCTOBER 21, 1936, BY A. D. BECK, RESPONDENT

ORDER FOR CONTINUANCE

The Securities and Exchange Commission, having been requested by its counsel for a continuance of the hearing in the above entitled matter, which was last set to be heard at 3:00 o'clock in the afternoon on the 9th day of November 1936, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and it appearing proper to grant the request;

It is ordered, pursuant to Rule VI of the Commission's Rules of Practice under the Securities Act of 1933, as amended, that the said hearing be continued to 3:00 o'clock in the afternoon on the 23rd day of November 1936, at the same place and before the same trial examiner.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3334—Filed, November 10, 1936; 12:55 p. m.]

* 1 F. R. 1942.

* 1 F. R. 1956.

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST IN THE COX & HAMON-RODDEN FARM, FILED ON OCTOBER 26, 1936, BY T. S. HOSE, RESPONDENT

ORDER TERMINATING PROCEEDING AFTER AMENDMENT

The Securities and Exchange Commission, finding that the offering sheet filed with the Commission, which is the subject of this proceeding, has been amended, so far as necessary, in accordance with the Suspension Order previously entered in this proceeding;

It is ordered, pursuant to Rule 341 (d) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the amendment received at the office of the Commission on November 5, 1936, be effective as of November 5, 1936; and

It is further ordered, that the Suspension Order, Order for Hearing, and Order Designating a Trial Examiner, heretofore entered in this proceeding, be, and the same hereby are, revoked and the said proceeding terminated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3344—Filed, November 10, 1936; 12:57 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A PRODUCING WORKING INTEREST IN THE HALL-BRISCOE-FRANCIS #1 FARM FILED ON NOVEMBER 4, 1936 BY W. J. DANIEL, RESPONDENT

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)), AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

(1) In that under Item 30 of Division II it is stated that the purchaser of the interest does not become a party to any management or operating contract, whereas from the copy of the conveyance furnished as an exhibit it appears that the interests offered are subject to a certain trust agreement pursuant to which Guaranty Title & Trustee Co. is vested with the operation, management, and control of the leasehold interests offered;

(2) In that no copy of the trust agreement mentioned in the preceding paragraph is included as an exhibit.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, suspended until the 9th day of December 1936; that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension shall be revoked or continued; and

It is further ordered, that Robert P. Reeder, an officer of the Commission be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance,

take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 23rd day of November 1936 at 11:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3340—Filed, November 10, 1936; 12:56 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A PRODUCING WORKING INTEREST IN THE HALL-SKELLY-VILLA #1 FARM, FILED ON NOVEMBER 4, 1936, BY W. J. DANIEL, RESPONDENT

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)), AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

(1) In that under Item 30 of Division II it is stated that the purchaser of the interest does not become a party to any management or operating contract, whereas from the copy of the conveyance furnished as an exhibit it appears that the interests offered are subject to a certain trust agreement pursuant to which Guaranty Title & Trustee Co. is vested with the operation, management, and control of the leasehold interests offered;

(2) In that no copy of the trust agreement mentioned in the preceding paragraph is included as an exhibit.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and hereby is, suspended until the 9th day of December 1936; that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension shall be revoked or continued; and

It is further ordered, that Robert P. Reeder, an officer of the Commission, be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheets as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 23rd day of November 1936, at 11:00 o'clock in the forenoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

¹ F. R. 1985.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3339—Filed, November 10, 1936; 12:56 p. m.]

*United States of America—Before the Securities
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 9th day of November A. D. 1936.

IN THE MATTER OF AN OFFERING SHEET OF A ROYALTY INTEREST
IN THE OHIO-LUPTON FARM, FILED ON NOVEMBER 5, 1936,
BY JAMES M. JOHNSON, RESPONDENT

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A))
AND ORDER DESIGNATING TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet described in the title hereof and filed by the respondent named therein is incomplete or inaccurate in the following material respects, to wit:

1. In that the information for which Item 7 of Division II calls is omitted;

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said

offering sheet be, and hereby is, suspended until the 9th day of December 1936, that an opportunity for hearing be given to the said respondent for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension shall be revoked or continued; and

It is further ordered that Charles S. Lobingier, an officer of the Commission be, and hereby is, designated as trial examiner to preside at such hearing, to continue or adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to said offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding commence on the 23rd day of November 1936 at 1:00 o'clock in the afternoon, at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said examiner may designate.

Upon the completion of testimony in this matter the examiner is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 3342—Filed, November 10, 1936; 12:57 p. m.]